

ORIGINAL  
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IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID B. CORNEAL AND  
SANDRA Y. CORNEAL

vs.

JACKSON TOWNSHIP, Huntingdon  
County, Pennsylvania,  
W. THOMAS WILSON, Individually and  
in his Official Capacity as Supervisor of  
Jackson Township, MICHAEL YODER,  
Individually and in his Official Capacity as  
Supervisor of Jackson Township,  
RALPH WEILER, Individually and in his  
Official Capacity as Supervisor of Jackson  
Township, BARRY PARKS, Individually  
and in His Official Capacity as Sewage  
Enforcement Officer of Jackson Township,  
DAVID VAN DOMMELEN, Individually  
and in his Official Capacity as Building  
Permit Officer, ANN I. WIRTH,  
Individually and in her Official Capacity as  
Secretary of Jackson Township, and

CASE NO. 1:00-CV-1192

JURY TRIAL DEMANDED

FILED  
HARRISBURG, PA

JUN 07 2002

MARY E. D'ANDREA, CLERK  
Per Deputy Clerk

DEFENDANTS' JACKSON TOWNSHIP, W. THOMAS WILSON,  
MICHAEL YODER, RALPH WEILER, BARRY PARKS,  
DAVID VAN DOMMELEN AND ANN I. WIRTH'S  
APPENDIX I OF EXHIBITS 1 THROUGH 5  
IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT

DEFENDANT'S  
EXHIBIT

/

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NOV 06 2001

DAVID B. CORNEAL and SANDRA Y. :  
CORNEAL, :

NOV 08 2001

MARY E. D'ANDREA, CLERK

Per [Signature]  
DEPUTY CLERK

Plaintiffs :

v. :

Civil Action No. 1: CV-00-1192

JACKSON TOWNSHIP, Huntingdon :  
County, Pennsylvania, *et al.* :

Defendants : (Rambo, J.)

AMENDED COMPLAINT

The Plaintiffs, David B. Corneal and Sandra Y. Corneal (collectively, the "Corneals"), by and through their attorneys, Eckert Seamans Cherin & Mellott, LLC, file this Amended Complaint, pursuant to this Court's Order of October 18, 2001. In that Order, the Court granted leave for the Corneals to amend their original pleading to remove the state law constitutional claims from where they had been mistakenly placed, under the heading of Count I, entitled "VIOLATION OF 42 U.S.C. §1983," and to place them properly under a separate pendant state count. The parties, however, all understand that the Court, by its March 29, 2001 Memorandum and Order and subsequent Orders with respect to the Corneals' requests for reconsideration, dismissed, as to the Township only, the state law claim for intentional interference with performance of contract, and further has dismissed Defendant Larry Newton from the action altogether, denied the Corneals' motion for reconsideration as to Newton and will not allow amendment as to Newton.

As the Court's Order and proper pleading practice seems to require, this Amended Complaint changes the text of the original complaint only as necessary to accomplish the amendment permitted by the Court, i.e., that the state constitutional claims have been removed from Count I and placed under a new and separate count labeled Count IV. The amended complaint does not add additional facts uncovered in discovery, or correct typographical errors, as the Court had already held that the Corneals had sufficiently stated the claims remaining after the Court's ruling on the motions to dismiss. With this background, and without waiving their right to appeal the dismissal of Defendant Newton from this case, the Corneals amend their complaint and aver as follows:

I.

**INTRODUCTION**

This is a §1983 Civil Rights Action, as well as an action asserting other pendent state supplemental claims, brought by the Corneals against Jackson Township and various elected and appointed officials to redress the violation of the Corneals' Constitutional rights. The Defendants have engaged in a constant and concerted course of conduct to deprive the Corneals of their right to develop, build upon and sell a parcel of real estate owned by the Corneals and located in Jackson Township.

The Defendants, acting in concert and under color of state law, have engaged in, and pursued their unlawful objective by: (1) imposing a "moratorium" on the development of land in Jackson Township where neither the County of Huntingdon, Pennsylvania (the "County") nor Jackson Township, Huntingdon County, Pennsylvania (the "Township") have an ordinance regulating the subdivision of land; (2) prohibiting the Corneals from developing, selling, and

building upon their Property (defined herein); (3) refusing to execute sewage modules which must be submitted to the Commonwealth of Pennsylvania, Department of Environmental Protection ("DEP"), which refusal is premised upon the Defendants' unlawful attempt to preclude the development and sale of the Property; (4) using and abusing their office to halt the development and sale of the Property by the Corneals; (5) denying the Corneals access to applications to apply for, and the issuance of, certain permits to which the Corneals are so entitled; (6) abusing their office and taking affirmative steps to wrongfully interfere with a contract for the sale of land by and between the Corneals and third parties; and (7) subjecting the Corneals and their Property to requirements which the Defendants have not adopted or enacted, and premising the denial of needed permits based on such requirements.

## II.

### THE PARTIES

1. David B. Corneal is an adult individual who resides at 505 East Fairmount Avenue, State College, PA 16801.

2. Sandra Y. Corneal is an adult individual, and the wife of David B. Corneal, who resides at 505 East Fairmount Avenue, State College, PA 16801.

3. Defendant Jackson Township (the "Township") is a second class township organized and existing under the laws of the Commonwealth of Pennsylvania with a principle place of business at R. D. 1, Box 390, Petersburg, PA 16669, and operates through a Board of Supervisors.



4. Defendant W. Thomas Wilson is an adult individual and is a member of the Board of Supervisors of the Township. Defendant Wilson resides at R. D. 1, Box 730, Petersburg, Pennsylvania.

5. Defendant Michael Yoder is an adult individual and is a member of the Board of Supervisors of the Township. Defendant Yoder resides at R. D. 2, Box 134, Huntingdon, Pennsylvania.

6. Defendant Ralph Weiler is an adult individual and is a member of the Board of Supervisors of the Township. Defendant Weiler resides at R. D. 1, Box 651, Petersburg, Pennsylvania.

7. Defendant Ann L. Wirth is an adult individual and is the Secretary of the Township. Defendant Wirth resides at R. D. 1, Box 390, Petersburg, Pennsylvania.

8. Defendant David Van Dommelen is an adult individual and is the Building Permit Officer of the Township. Defendant Dommelen resides at R. D. 1, Box 631, Petersburg, Pennsylvania.

9. Defendant Barry Parks is an adult individual and is the Sewage Enforcement Officer of the Township. Defendant Parks resides in Huntingdon, Pennsylvania.

10. Defendant Larry Newton, Esquire, is an adult individual and is Solicitor to the Township. Defendant Newton's last known address is 504 Penn Street, Huntingdon, Pennsylvania.

11. At all times relevant hereto, all Defendants acted under color of state law as defined in 42 U.S.C. §1983, knowing that their actions were clearly in violation of the Corneals' established Constitutional rights.

12. All Defendants are sued in their official capacity and in their individual capacities.

### III.

#### JURISDICTION AND VENUE

13. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and §1343, in that the Corneals' cause of action involves a federal question and/or involves a violation of civil rights arising under the Constitution and laws of the United States, and pursuant to the doctrine of supplemental jurisdiction under 28 U.S.C. §1367.

14. Venue in the United States District Court for the Middle District of Pennsylvania is proper under Title 28, U.S.C. §1343.

### IV.

#### BACKGROUND

15. The Corneals are the owners of an approximately ninety-five (95) acre tract of land situate in Jackson Township, Huntingdon County, Pennsylvania (the "Property"). The Property was acquired by the Corneals in October, 1998.

16. The Corneals desired to subdivide and sell a portion of the Property. Believing that subdivision approval by the County was required, in the fall of 1999, the Corneals hired a surveyor to perform a survey of the Property and to prepare a subdivision plan.

17. The Corneals subsequently contacted Defendant Parks, the Township's Sewage Enforcement Officer, to perform tests to identify those portions of the Property which were suitable for an on-lot septic system. Suitable sites were located by Defendant Parks.

18. The Corneals were required to pay to the Defendant Township over One Thousand Four Hundred (\$1,400) Dollars for Defendant Parks' services and proper compensation was, in fact, paid by the Corneals for Defendant Parks' efforts.

19. After Defendant Parks identified the suitable sites for on-lot septic, the Corneals contacted Defendant Wilson and engaged Defendant Wilson's private business, Eagle Excavating, to do percolation tests at the Property. The percolation tests were successful and Defendant Wilson's private business, Eagle Excavating, was compensated for its services.

20. As a result of the percolation tests, a subdivision plan was prepared, at the Corneals' expense. The subdivision plan depicted the division of the Property into four (4) separate lots (the "Initial Plan").

21. In August-September, 1999, the Corneals commenced the marketing of one of the lots, a twenty-five (25) acre tract of land, upon which a house and barn were situate.

22. On October 7, 1999, the Corneals entered into a contract with John Hewett, Jr., and Joann Smith, pursuant to which Hewett and Smith agreed to purchase said twenty-five (25) acre lot for One Hundred Fifty Thousand (\$150,000) Dollars (the "Contract"). A true and correct copy of the Contract is attached hereto as Exhibit "A." Pursuant to the terms of the Contract, Hewett and Smith placed a down payment of Four Thousand (\$4,000) Dollars and agreed to pay Five Hundred (\$500) Dollars per month against the purchase price until the date of settlement. Settlement was to be on June 30, 2000.

23. As referenced above, the Corneals believed that they were required to obtain subdivision approval for the division of the Property from the County. Although the Defendant Township had not enacted a subdivision and land development ordinance pursuant

to the provisions of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, as re-enacted and amended, 53 P.S. §10101 et seq. (the "MPC"), to govern the subdivision and development of land within the Township, the Corneals were advised by Defendant Wilson that, insofar as the Township was "required" to sign the plan, "good politics" suggested that the Initial Plan should be presented to the Board of Supervisors for review.

24. Indeed, these comments were made by Defendant Wilson at the time that Defendant Wilson's company was doing work for, and collecting money from, the Corneals. At no point did Defendant Wilson inform the Corneals that neither the County nor the Township had a subdivision and land development ordinance; rather, at all times, Defendant Wilson indicated that submission of subdivision plans, and approval by the County, with the "blessing" of the Township, was required.

25. The Corneals presented the Initial Plan to the Defendant Township on February 7, 2000. At the time of plan submission to the Defendant Township, the Corneals were not advised that subdivision approval was not required.

26. Instead, the Corneals were advised that the Township passed a "resolution" at their January, 2000, meeting through which a moratorium on new development was imposed by the Township, pending the Township's enactment of a subdivision and land development ordinance. The Corneals were advised that they were prohibited from subdividing the Property.

27. Despite the fact that the Defendant Township did not have a subdivision and land development ordinance, and that there was nothing upon which a moratorium could be

placed, Defendant Township, Defendant Wilson, Defendant Yoder and Defendant Weiler refused to review the Initial Plan.

28. Despite the fact that the Township had not enacted an ordinance pursuant to the MPC to regulate the development of land within the Township, the Defendants have taken action to prohibit the development of the Property.

29. In addition to the foregoing, the purported moratorium was not adopted pursuant to a proper resolution. Rather, Township minutes reflect that Defendants Wilson, Yoder and Weiler merely made a statement indicating that "no more sub-divisions will be approved until after the proposed Sub-Division ordinance for the Township has been approved." The "moratorium" effectively was imposed for an indefinite period of time. A true and correct copy of said minutes are attached hereto as Exhibit "B."

30. The purported moratorium imposed by Defendants Township, Wilson, Yoder and Weiler on the development of land within the Township is not valid, is procedurally defective, is substantively defective and is constitutionally infirm.

31. At best, the purported "moratorium" is nothing but a "policy" of the Defendant Township, which "policy" prohibits the development of land within the Township.

32. As more fully set forth herein, the application of this "policy" to the Property violates those liberty and property rights which the Corneals possess pursuant to the Constitutions of the United States and of the Commonwealth of Pennsylvania and exacts a deprivation of those fundamental rights.

33. The Board and its members, Defendants Wilson, Yoder and Weiler, are the "final policy makers" of the Township.

34. The actions of Defendants Wilson, Yoder and Weiler in adopting a policy which unreasonably and indefinitely prohibits the Corneals from developing, selling, conveying and enjoying the "bundle of rights" which accompany their ownership of the Property violates the clearly established rights of the Corneals as guaranteed by the Constitutions of the United States and of the Commonwealth of Pennsylvania.

35. Within several days of presenting the Initial Plan to the Defendant Township, the Initial Plan was presented to the County Planning Commission for review.

36. The County of Huntingdon has never enacted a subdivision and land development ordinance pursuant to the provisions of the MPC. Rather, the County has merely caused to be prepared a "Land Development Guide" which purports to govern land development within the County.

37. The Land Development Guide is not an ordinance.

38. The Land Development Guide was not prepared pursuant to the provisions of the MPC.

39. The Land Development Guide provides no legal basis for denying approval of a land development plan.

40. Although the County Planning Commission had no authority to deny approval of the Initial Plan, the County provided comments on the Initial Plan and, by way of letter dated February 24, 2000, recommended that the Township deny approval of the Initial Plan. A true and correct copy of said letter is attached hereto as Exhibit "C."

41. The County Planning Commission recommended that the Initial Plan be "denied" even though neither the County nor the Defendant Township has a duly enacted ordinance upon which a denial could be lawfully based.

42. The County Planning Commission's rationale for recommending denial of the Initial Plan was based, in part, on the unlawful policy to prohibit the development, subdivision and conveyance of land and was based, in part, on certain perceived inconsistencies between the Initial Plan and a proposed subdivision and land development ordinance which was being reviewed for enactment by the Township.

43. The aforementioned bases for recommending that the Initial Plan be denied were insufficient as a matter of law.

44. Attempting to cooperate with the County and the Defendants, the Corneals revised the Initial Plan to address the purported "concerns" expressed by the County Planning Commission.

45. The revised plan depicted the division of the Property into two lots, consisting of a 25.80-acre parcel of land which was to be conveyed to Hewett and Smith pursuant to the Contract and a residual 68.87-acre parcel of land (approximately) upon which the Corneals intended to construct a house, an art studio and a garage (the "Revised Plan").

46. The Revised Plan was submitted to the County Planning Commission for review.

47. By way of letter dated April 20, 2000, the County Planning Commission "recommended" "conditional approval of this proposal pending adoption of the subdivision and land development ordinance" by the Township. A true and correct copy of said letter is

attached hereto as Exhibit "D." The letter notes that the Revised Plan appears to be in compliance with the regulations of the draft ordinance.

48. Despite the "recommendation" of the County Planning Commission, Defendants Township, Wilson, Yoder and Weiler refused even to review the Revised Plan, continued to deceive the Corneals with the belief that subdivision approval was required, and advised that the "moratorium" precluded the Corneals from subdividing, developing and conveying the Property.

49. Subsequent to the submission of the Revised Plan to the Defendant Township, the Defendants conspired to commit, and engaged in, a concerted scheme and course of conduct to preclude the Corneals from obtaining approvals, applications and permits to which they were so entitled and which were necessary to further the development of the Property.

50. The Defendants conspired to commit and engaged in such conduct with the intent to deprive the Corneals of approvals, applications and permits to which they were entitled, to interfere with the lawful development of the Property, and to preclude the lawful development of the Property, including the conveyance of a portion of the Property to Hewett and Smith pursuant to the Contract.

51. To illustrate, at the March, 2000, meeting, Defendants Wilson, Yoder and Weiler refused to approve and sign certain sewage modules which were required by DEP and for which Defendant Parks, the Township's own SEO, had approved. The aforementioned Defendants refused to approve and sign the modules even though the modules were in compliance with law.



52. Defendants Wilson, Yoder and Weiler refused to approve the modules based on the illegal "moratorium."

53. In an effort to at least begin developing a portion of the sixty-nine (69) acres, Plaintiff David B. Corneal presented himself to the Defendants at a Township meeting and requested a building permit for the art studio. Defendants Wilson, Yoder and Weiler refused, stating that the art studio would require sewer and that they refused to sign the sewer modules for DEP. At that time, Plaintiff David B. Corneal requested a "privy permit," which is permitted by Township ordinances, to satisfy the demands of Defendants Wilson, Yoder and Weiler that the art studio have sewer access. Plaintiff David B. Corneal was advised that the privy permit was to be issued by Defendant Parks, as SEO.

54. It is believed, and therefore averred that, realizing that an avenue existed for the Corneals to commence the development of the Property, Defendant Wirth, with the consent of Defendants Wilson, Yoder and Weiler, immediately contacted Defendant Parks and instructed Defendant Parks to refuse to issue any permit to the Corneals and to not assist the Corneals in any way.

55. Although Defendant Wirth is the Secretary of the Township and Board, Defendant Wirth functions as a "manager" and is actively involved in the day-to-day operations of the Defendant Township.

56. That same evening, Plaintiff David B. Corneal contacted Defendant Parks for the privy permit.

57. At the time that Plaintiff David B. Corneal contacted Defendant Parks for the privy permit, Defendant Parks advised Plaintiff David B. Corneal that he had been "directed"

by Defendant Wirth, who called him that evening, not to issue any permits to the Corneals and not to provide any help to the Corneals. Defendant Parks advised that he would talk to Defendant Wilson concerning the same and, thereafter, contact Plaintiff David B. Corneal. Defendant Parks, however, has never responded accordingly, despite several calls and answering machine messages from Plaintiff David B. Corneal.

58. Pursuant to applicable ordinances, the Corneals were entitled to the issuance of the privy permit.

59. Instead of complying with the law and issuing the permit to which the Corneals were entitled, Defendant Parks fostered and engaged in the conspiracy to prohibit the Corneals from lawfully developing the Property and refused to issue the permit.

60. Plaintiff David B. Corneal made efforts to contact Defendant Newton to discuss the issues associated with the development of the Corneals' Property and the issuance of the permits; no substantive response was ever provided by Defendant Newton.

61. In a continuing effort to lawfully develop the sixty-nine (69) acre portion of the Property, the Corneals commenced the construction of a one and a half (1½) mile drive through the Property to their home site. Although a private business, Eagle Construction Company, which is owned by Defendant Wilson, was initially approached to do the roadwork, another contractor was hired.

62. During the course of constructing the driveway, the Corneals' contractor was approached by the Army Corps of Engineers and DEP, the Department of Water and Conservation Enforcement, to investigate a "private complaint" that the Corneals were violating wetlands regulations. The complaint was found to be without merit.

63. It is believed, and therefore averred, that Defendant Wilson and/or Defendant Wirth filed the complaint because of personal animus toward the Corneals.

64. At the end of April, 2000, after the driveway was completed, the Corneals desired to construct a garage which was to be separate from the house and art studio.

65. Pursuant to the Township Building Ordinance, Plaintiff David B. Corneal approached Defendant Van Dommelen, the Building Permit Officer, to obtain an application for the issuance of a building permit for the garage.

66. Section 3.02A of the Building Permit Ordinance requires an individual who desires that a building permit be issued to him or her complete an application for the permit on forms supplied by the Township.

67. At the time that the application was requested, the Corneals had appropriate drawings to present to Defendant Van Dommelen, as well as all information necessary to fully complete the application, which information would have required Defendant Van Dommelen to issue the permit.

68. Upon learning that the person requesting the application was Plaintiff David B. Corneal, Defendant Van Dommelen refused to provide to David B. Corneal even an application for a building permit and indicated that he would not issue a building permit.

69. Defendant Van Dommelen advised Plaintiff David B. Corneal that he would not issue a building permit to the Corneals because he was instructed by the Township, through its governing Board, to not issue any permits to the Corneals. In Plaintiff David B. Corneal's presence, Defendant Van Dommelen called Defendant Wilson, who instructed Defendant Van Dommelen not to give the Corneals any permits.

70. The Corneals complied with all objective provisions of the Building Permit Ordinance for the issuance of a building permit for the garage and were entitled to the issuance of the building permit.

71. Indeed, Defendant Van Dommelen advised Plaintiff David B. Corneal that had any other property owner within the Township requested the permit, the permit would have been issued.

72. Instead of acting in accordance with his obligations under the Building Ordinance, Defendant Van Dommelen fostered and engaged in the conspiracy with Defendants Township, Wilson, Yoder, Weiler and Wirth to not issue a building permit to the Corneals and to unlawfully prevent the Corneals from lawfully developing the Property.

73. On May 1, 2000, the Corneals called Defendant Newton concerning the unlawful refusal of Defendant Van Dommelen to issue the building permit. Although Defendant Newton advised that he would "look into it" and call Plaintiff David B. Corneal back, no call was forthcoming.

74. Instead, on May 1, 2000, the Corneals received a letter from counsel for Hewett and Smith. A true and correct copy of said letter is attached hereto as Exhibit "E." Counsel for Hewett and Smith opined:

It is my understanding that there are some difficulties with the Township in obtaining subdivision approval. It is quite obvious to me that final settlement will not be able to take place on or before June 30, 2000.

My clients are not interested in any addendum to this Agreement and desire that the Agreement be terminated.

See Exhibit "E."

75. Through said letter, counsel for Hewett and Smith requested that the down payment of Four Thousand (\$4,000) Dollars, in addition to monthly payments totaling Three Thousand (\$3,000) Dollars, be returned.

76. It is believed, and therefore averred, that Hewett and Smith had spoken to the Defendants concerning the subdivision of the Property, during which Hewett and Smith advised the Defendants of the adverse impact of the Defendants' actions on Hewett and Smith.

77. The Corneals also told the Defendants at the February and March, 2000, meeting of the Township of the financial difficulty that they were causing Hewett and Smith by delaying the subdivision approval.

78. It is believed, and therefore averred, that the Defendants provided information to Hewett and Smith which reflected and/or suggested that a moratorium on development in the Township was in place, that the Revised Plan would not be approved and that no permits for the development of the Property, or any division of the same, would be forthcoming.

79. It is believed, and therefore averred, that Defendant Newton and counsel to Hewett and Smith are situate in the same office, use the same secretaries, use the same lobby and jointly own the building.

80. It is believed, and therefore averred, that Defendant Newton, acting alone or in concert with the other Defendants, advised counsel for Hewett and Smith that the Defendants would not grant subdivision approval for the parcel of land which Hewett and Smith were contracted to acquire.

81. It is believed, and therefore averred, that Defendant Newton, acting alone or in concert with the other Defendants, advised counsel for Hewett and Smith of the Defendants'

position that subdivision approval would not be forthcoming, even though no legal basis existed for the Defendants to impose a moratorium on the subdivision of property in the Township.

82. The concerted conduct of Defendants has interfered with the contractual relationship between the Corneals and Hewett and Smith.

83. As of the date hereof, the Defendants, acting in concert, have refused to issue a building permit for the construction of a garage to the Corneals even though the construction of the same is in compliance with applicable ordinances of the Township.

84. As of the date hereof, the Defendants, acting in concert, have refused to sign a total of five (5) sewage modules for the development of the Property, even though the modules were in accord with applicable law.

85. As of the date hereof, the Defendants, acting in concert, have refused to issue a privy permit for the Property even though the issuance of the same is mandated by applicable ordinances of the Township.

86. The Defendants, acting under color of state law and in concert, have taken affirmative action to effectuate an illegal and unconstitutional "moratorium" or "policy" on the development and use of the Property.

87. At all times, all actions of the Defendants have been condoned and, at a minimum, acquiesced in by the Township as an accepted course of conduct.

88. The Defendants, acting under color of state law, engaged in deceptive action to cause the Corneals to believe that subdivision approval was required even though the

Defendants were well aware that neither the Township nor the County had a validly existing subdivision ordinance.

89. Even though the Defendants had no authority to regulate the subdivision and development of land in the Township by failing to enact a subdivision and land development ordinance pursuant to the MPC, the Defendants engaged in a concerted course of conduct, as set forth above, to prevent the Corneals from conveying and developing their Property, including imposing an unlawful and constitutionally infirm moratorium on the development of land within the Township and applying the same to the Property, by wrongfully refusing to approve sewage modules, and by engaging in a conspiracy to deny and, in fact, denying, certain applications and permits to which the Corneals were entitled by law.

90. The Corneals have a constitutionally protected liberty and property interest in the Property and have a constitutionally protected right to dispose, develop and convey the same.

91. The Defendants' actions and/or omissions as alleged herein are in violation of the Corneals' clearly established constitutional rights and they have deprived the Corneals of the "bundle of rights" which accompany their ownership of the Property and the Corneals have been financially injured by the same.

92. The acts and/or omissions committed by the Defendants were done in an arbitrary, capricious and malicious manner. No legitimate governmental purpose was served by their actions which were committed only to deny the Corneals of their constitutionally protected property rights and liberty interests.

93. It is believed, and therefore averred, that Defendant Wilson's conduct was motivated, in part, by a personal animus toward the Corneals insofar as the Corneals chose to use a contractor other than Defendant Wilson's contracting company to construct their one and one-half (1½) mile driveway.

## COUNT I

### VIOLATION OF 42 U.S.C. §1983

94. Paragraphs one (1) through ninety-three (93) are incorporated herein by reference as if set forth in full.

95. The Defendants, at all times material hereto, have acted and continue to act under color of state law.

96. The Corneals enjoy a constitutionally protected right in proceeding with the lawful use of their Property, as well as in proceeding with the development and sale of the same.

97. As a result of the Defendants' conduct, the Defendants, acting under the color of state law, have deprived the Corneals of their clearly established constitutional right and privilege to own, use, dispose and develop the Property, which rights are protected by the Constitution of the United States of America.

98. As a result of the conduct set forth herein, the Defendants, acting under the color of state law, have deprived the Corneals of their procedural and substantive due process rights guaranteed by the Constitution of the United States of America: (1) through the flagrant abuse of office; (2) by enforcing ordinances in an arbitrary and selective manner; (3) by refusing to issue permits to the Corneals where the Corneals are in compliance with all



provisions of all applicable ordinances; (4) by taking action through the abuse of their office to impede the development of the Property where the Defendants have not enacted a subdivision and land development ordinance to regulate the same; (5) by interfering with the contractual relationship between the Corneals and Hewett and Smith, which Contract involved significant property interest; (6) by abusing their office and engaging in conduct so as to deceive the Corneals into believing that subdivision approval was required; and (7) by depriving the Corneals of an avenue to appeal their unlawful action by refusing to even review the Initial Plan or to even provide necessary applications for permits.

99. In violation of the Corneals' rights and entitlement under the due process clause of the United States Constitution, the Defendants, acting individually and in concert, deliberately, arbitrarily, capriciously, by abuse of governmental powers and in bad faith, which was premised, in part, on personal animus toward the Corneals, have deprived, and continue to deprive, for illegitimate, non-governmental and arbitrary reasons, the Corneals of their protected interest in proceeding with the use and development of their Property.

100. The actions and conduct of the Defendants, as set forth herein, violate the Corneals' due process rights as guaranteed by the United States Constitution.

101. The Defendants' violation of the Corneals' constitutional rights is continuing.

102. The Corneals believe, and therefore aver, that the conduct of the Defendants, by reason of the Defendants' intentional, willful and flagrant violation of 42 U.S.C. §1983, will continue in the future.

103. No adequate remedy at law exists to redress these violations of the Corneals' constitutional rights.

104. The Defendants' actions herein were intentional, flagrant and malicious so as to warrant the imposition of punitive damages against the Defendants in their individual capacities.

WHEREFORE, the Plaintiffs, David B. Corneal and Sandra Y. Corneal, respectfully request that this Court:

- (a) Enter judgment in their favor and against each Defendant, individually, jointly and severally, holding and declaring that the Defendants violated the Corneals' federal due process constitutional rights while, at all times, acting under color of state law;
- (b) Enter an order directing the Defendants, in their official capacity, to cause to be issued any and all permits so that the Property may be developed and conveyed;
- (c) Enter an order declaring that the purported moratorium is invalid and constitutionally infirm;
- (d) Enter an order restraining the Defendants from impeding and interfering with the development and sale of the Property;
- (e) Enter an order awarding compensatory damages against the Defendants which were suffered, and are being suffered, as a result of the Defendants' illegal conduct;
- (f) Enter an award of punitive damages against the Defendants, in their individual capacities, for the intentional, flagrant and malicious conduct;
- (g) Enter an order directing the Defendants to pay the Corneals' costs, including reasonable attorney's fees; and
- (h) Such further relief as this Court deems just and proper.

## COUNT II

### STATE LAW CIVIL CONSPIRACY

105. Paragraphs one (1) through one hundred four (104) hereof are incorporated herein by reference as if set forth in full.

106. Defendant Parks was contacted by other Defendants and was instructed not to issue to the Corneals a privy permit and not to assist the Corneals in any way.

107. Defendant Parks agreed with the Defendant(s) who contacted him to instruct him not to issue a privy permit and complied with their request.

108. Defendant Van Dommelen was contacted by other Defendants and was instructed not to issue to the Corneals a building permit.

109. Defendant Van Dommelen agreed with the Defendant(s) who contacted him to instruct him not to issue a building permit and complied with their request.

110. The Defendants entered into agreements to deprive the Corneals of the aforementioned permits.

111. The Defendants entered into agreements to deprive the Corneals of the aforementioned permits even though the Corneals were entitled to such permits under applicable ordinances.

112. The Defendants entered into such agreements with the intent of depriving the Corneals of their constitutional right to use and to develop their Property.

113. The Defendants entered into such agreement with full knowledge that the Corneals' constitutional rights would be infringed.

114. The Defendants entered into an agreement to preclude development within the Township by imposing a "moratorium."

115. The moratorium imposed by the Township was invalid and constitutionally infirm.

116. The Defendants entered into an agreement to prohibit and impede development in the Township and, specifically, to prohibit the development of the Corneals' Property, by premising such on the constitutionally infirm moratorium.

117. The Defendants were well aware that prohibiting development of the Property violated the Corneals' constitutional right.

118. The Defendants' conduct herein was arbitrary, malicious, capricious, unlawful and/or carried out in an unlawful manner.

WHEREFORE, the Plaintiffs, David B. Corneal and Sandra Y. Corneal, respectfully request that this Court:

(a) Enter judgment in their favor and against each Defendant, individually, jointly and severally, holding and declaring that the Defendants violated the Corneals' common law and constitutional rights while, at all times, acting under color of state law;

(b) Enter an order declaring that the purported moratorium is invalid and constitutionally infirm;

(c) Enter an order awarding compensatory damages against the Defendants which were suffered, and are being suffered, as a result of the Defendants' illegal conduct;

(d) Enter an order directing the Defendants to pay the Corneals' costs, including reasonable attorney's fees to the extent permitted by law; and

(e) Such further relief as this Court deems just and proper.

### COUNT III

#### **STATE LAW INTENTIONAL INTERFERENCE WITH PERFORMANCE OF CONTRACT**

119. Paragraphs one (1) through one hundred eighteen (118) hereof are incorporated herein by reference.

120. The Corneals were to receive from Hewett and Smith One Hundred Fifty Thousand (\$150,000) Dollars for the purchase by Hewett and Smith of the 25.8-acre portion of the Property subject to the Contract.

121. The Corneals intended to use the One Hundred Fifty Thousand (\$150,000) Dollars received from Hewett and Smith through the Contract to construct a home, art studio, garage and other amenities at the remaining portion of the Property.

122. The availability of the One Hundred Fifty Thousand (\$150,000) Dollars from the Contract would permit the Corneals to engage in a cash transaction for the construction at the Property, as opposed to financing such construction, with the concomitant payment of interest, fees and costs.

123. The Defendants were aware of the existence of the Contract between the Corneals and Hewett and Smith.

124. The Defendants were aware that the Corneals believed (albeit erroneously) that subdivision approval was required to satisfy the terms of the Contract.

125. It is believed, and therefore averred, that Hewett and Smith presented themselves to the Defendants to advise of the significant adverse impact that the Defendants' actions had upon Hewett and Smith.

126. Despite the fact the Defendants were aware of the existence of the Contract, the Defendants continued to take the position that a moratorium was in effect in the Township.

127. Despite the fact the Defendants were aware of the existence of the Contract, the Defendants advised the Corneals and Hewett and Smith that no development would be permitted in the Township until such unspecified time that the moratorium was lifted.

128. It is believed, and therefore averred, that the actions and conduct of the Defendants were intentional and willful.

129. It is believed, and therefore averred, that Defendant Newton advised counsel for Hewett and Smith that subdivision approval of the Property would not be forthcoming and that there would be problems with the conveyance of a portion of the Property to Hewett and Smith.

130. It is believed, and therefore averred, that the actions and comments of the Defendants caused Hewett and Smith to send the letter dated May 1, 2000, through counsel, advising the Corneals that they would not perform the Contract.

131. It is believed, and therefore averred, that the actions of the Defendants were intentional and interfered with the performance of the Contract.

132. As a result of the Defendants' intentional and willful interference with the Corneals' contractual relationship with Hewett and Smith, Hewett and Smith have refused to perform the Contract and the Corneals will not only lose the One Hundred Fifty Thousand (\$150,000) Dollars owed thereunder, but will also be forced to finance the construction of a home, art studio, garage and other amenities which are proposed to be constructed at the Property.

## COUNT IV

### STATE CONSTITUTIONAL CLAIMS

133. Paragraphs one (1) through ninety-three (132) are incorporated herein by reference as if set forth in full.

134. The Defendants, at all times material hereto, have acted and continue to act under color of state law.

135. The Corneals enjoy a state constitutional protected right in proceeding with the lawful use of their Property, as well as in proceeding with the development and sale of the same.

136. As a result of the Defendants' conduct, the Defendants have deprived the Corneals of their clearly established state constitutional rights and privileges to own, use, dispose and develop the Property, which rights are protected by the Constitution of the Commonwealth of Pennsylvania.

137. As a result of the conduct set forth herein, the Defendants have deprived the Corneals of their state procedural and substantive due process rights: (1) through the flagrant abuse of office; (2) by enforcing ordinances in an arbitrary and selective manner; (3) by refusing to issue permits to the Corneals where the Corneals are in compliance with all provisions of all applicable ordinances; (4) by taking action through the abuse of their office to impede the development of the Property where the Defendants have not enacted a subdivision and land development ordinance to regulate the same; (5) by interfering with the contractual relationship between the Corneals and Hewett and Smith, which Contract involved significant property interest; (6) by abusing their office and engaging in conduct so as to deceive the

Corneals into believing that subdivision approval was required; and (7) by depriving the Corneals of an avenue to appeal their unlawful action by refusing to even review the Initial Plan or to even provide necessary applications for permits.

138. In violation of the Corneals' rights and entitlement to substantive and procedural due process under the Pennsylvania Constitution, the Defendants, acting individually and in concert, deliberately, arbitrarily, capriciously, by abuse of governmental powers and in bad faith, which was premised, in part, on personal animus toward the Corneals, have deprived, and continue to deprive, for illegitimate, non-governmental and arbitrary reasons, the Corneals of their protected interest in proceeding with the use and development of their Property.

139. The actions and conduct of the Defendants, as set forth herein violate the Corneals' rights as guaranteed by the Constitution of the Commonwealth of Pennsylvania, including, but not limited to, Article I, §§1, 17 and 26.

140. No adequate remedy at law exists to redress these violations of the Corneals' constitutional rights.

141. The Defendants' actions herein were intentional, flagrant and malicious so as to warrant the imposition of punitive damages against the Defendants in their individual capacities.

WHEREFORE, the Plaintiffs, David B. Corneal and Sandra Y. Corneal, respectfully request that this Court:

(a) Enter judgment in their favor and against each Defendant, individually, jointly and severally, holding and declaring that the Defendants violated the Corneals' rights to substantive and procedural due process under the Pennsylvania Constitution;



(b) Enter an order directing the Defendants, in their official capacity, to cause to be issued any and all permits so that the Property may be developed and conveyed;

(c) Enter an order declaring that the purported moratorium is invalid and constitutionally infirm;

(d) Enter an order restraining the Defendants from impeding and interfering with the development and sale of the Property;

(e) Enter an order awarding compensatory damages against the Defendants which were suffered, and are being suffered, as a result of the Defendants' illegal conduct;

(f) Enter an award of punitive damages against the Defendants, in their individual capacities, for the intentional, flagrant and malicious conduct;

(g) Enter an order directing the Defendants to pay the Corneals' costs, including reasonable attorney's fees; and

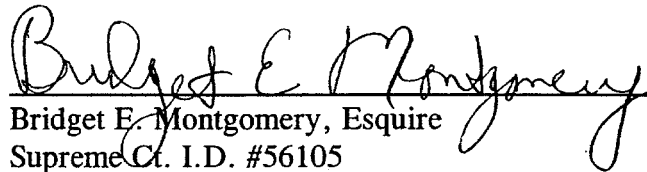
(h) Such further relief as this Court deems just and proper.

WHEREFORE, the Plaintiffs, David B. Corneal and Sandra Y. Corneal, respectfully request this Court to award damages against the Defendants in the amount of One Hundred Fifty Thousand (\$150,000) Dollars, plus interest, to award other compensatory damages, including, but not limited to, those damages which will be suffered through the

financing of the construction, to impose costs of this litigation, including reasonable attorney's fees to the extent permitted by law, to impose punitive damages and for such other relief as this Court deems just and reasonable.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC

A handwritten signature in cursive script, reading "Bridget E. Montgomery", is written over a horizontal line.

Bridget E. Montgomery, Esquire  
Supreme Ct. I.D. #56105

Adam M. Shienbold, Esquire

Supreme Ct. I.D. #18343

213 Market Street

Eighth Floor

Harrisburg, PA 17101

(717) 237-6000

Attorneys for Plaintiffs

Date: 11-05-01

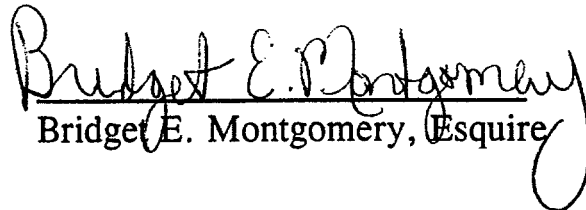
L0219803

**CERTIFICATE OF SERVICE**

I, Bridget E. Montgomery, Esq., hereby certify that I am this day serving a copy of the foregoing document via First Class U.S. Mail, which service satisfies the requirements of the Federal Rules of Civil Procedure and Middle District Local Rules of Court, addressed as follows:

Anthony R. Sherr, Esq.  
Mayers Mennies & Sherr, LLP  
3031 Walton Road, Building A, Suite 330  
P. O. Box 1547  
Blue Bell, PA 19422-0440

Michelle J. Thorp, Esq.  
Thomas Thomas & Hafer, LLP  
305 North Front Street  
Harrisburg, PA 17101

  
Bridget E. Montgomery, Esquire

Dated: 11-6-01



# Article of Agreement,

Made the 7th day of October in the year one thousand nine hundred ninty nine (1999).

Between DAVID B. CORNEAL and SANDRA Y. CORNEAL , parties

of the first part.

and JOHN B. HEWETT, JR. and JoANN F. SMITH, parties

of the second part,

Witnesseth, that the said part ief the first part, for the consideration hereinafter mentioned and contained, agree to sell and convey unto the said part iesof the second part, their heirs or assigns, all

Farm House, Barn and 25.8 acres, more or less, located in Jackson Township, Huntingdon County, more fully described in a proposed subdivision survey prepared by David A. Simpson for David B. and Sandra Y. Corneal. Being a portion of a larger fram tract owned by the parties of the first part. Said subdivision to be finalized and recorded prior to settlement by the parties herein.

THIS CONTRACT IS SUBJECT TO THE ADDITIONAL TERMS SETFORTH IN AN ADDENDUM ATTACHED HERETO.

In Consideration Whereof, the said parties of the second part agree to purchase said premises and to pay said part of the first part therefor, the sum of one hundred and fifty thousand (\$150,000.00) and xx/00 ----- Dollars, in the manner following, to-wit

1. Four thousand and xx/00 (\$4,000.00) dollars downpayment.
2. Monthly payments of five hundred and xx/00(\$500.00) dollars beginning on November 7, 1999 and continuing each month thereafter until final settlement on or about JUNE 30th, 2000. Said monthly payments to be applied to principle against the purchase price.
3. The balance in full at the time of settlement.
4. Buyers to pay 1% transfer tax and a proration of the real estate taxes.
5. No personal property is included in this sale.

and upon the payment of the said sum, the said parties of the first part will, at their own proper cost and charge, make, execute and deliver to the said part ies of the second part a good and sufficient Deed for the proper conveying and assuring of the said premises in fee simple, free from all incumbrance, and dower and right of dower, such conveyance to contain the usual covenants of Special

warranty

RE: PROPEN. / 25.8 acres with house and b. 1  
 SELLERS DAVID B. CORNEAL and SANDRA Y. CORNEAL  
 BUYERS JOHN P. HEWETT, JR. and JOANN F. SMITH  
 DATE OF AGREEMENT 10-7 1999, SETTLEMENT DATE 6-30 ~~10-2000~~ SALE PRICE \$50,000

1. Buyers acknowledge that a present tenant, Scott Page, needs to be relocated by Sellers to a property they are constructing on another portion of the farm and that they will be flexible in the settlement date to accommodate this transition.
2. Sellers grant to the Buyers, upon the signing of this agreement the right to begin preparation of flower beds for Spring planting. Sellers have the right to approve or disapprove the numbers and locations of the flower beds.
3. Sellers shall retain the right to occupy the upper level of the barn for a period of two years or until their home is finished on the remainder of the farm, which ever comes first.
4. The deed will contain restrictive covenants that the land may not be further subdivided, that there may not be mobile homes of any nature put on the property permanently or temporarily. That any home constructed on the property shall contain a minimum of 2,000 sq. feet of living space.

OK 1300+on-

All other terms and conditions of the said agreement shall remain unchanged and in full force and effect

WITNESS	_____	BUYER	<u>John P. Hewett, Jr.</u> (S)
WITNESS	_____	BUYER	<u>Joann F. Smith</u> (S)
WITNESS	_____	DATE	<u>10-7-99</u> 19 <u>99</u>
WITNESS	_____	SELLER	<u>David B. Corneal</u> (S)
AGENT	_____	SELLER	<u>Sandra Y. Corneal</u> (S)
		DATE	19 <u>99</u>

COPIES: WHITE: SELLER, YELLOW: AGENT, PINK: BUYER, BLUE: MORTGAGEE, GOLD: \_\_\_\_\_, GREEN: BUYER'S AT TIME OF SIGNING

PENNSYLVANIA ASSOCIATION OF REALTORS®

SPEEDY

be delivered to the parties of the second part, their heirs or assigns, on the 30th day of June 1920, until which time the parties of the first part shall be entitled to receive the rents, issues and profits thereof.

And it is further understood and agreed, that in case default shall be made in the payment of any installment of principal or interest hereby agreed to be paid, for a period of ten (10) days after the same shall have become due and payable by the terms hereof, then and in that case the whole of the principal sum and interest shall, at the option of the said parties of the first part, become forthwith due and payable, without defalcation or stay of execution; said parties of the second part do hereby empower any attorney of any Court of Record of Pennsylvania or elsewhere, to appear and confess judgment against them for the above sum, or so much thereof as remains unpaid, together with the interest, with costs of suit, release of errors, attorney's commission of 10% per cent., waiving inquisition and exemption.

In Witness Whereof, the parties to this agreement have hereunto set their hands and seals, the day and year first above written.

SEALED AND DELIVERED  
IN THE PRESENCE OF

DAVID B. CORNEAL

SANDRA A. CORNEAL

JOHN E. HEWITT, JR.

JOANN F. SMITH

SEAL

SEAL

SEAL

State of

County of

, ss.

On this ~~10th~~ 7th day of October 19 , before me, the subscriber, personally came the above named

foregoing Indenture to be such.

who in due form of law acknowledged the act and deed, and desired that the same might be recorded as

Witness my hand and

seal the day and year aforesaid.

My Commission Expires

SEAL

Agreement.

FORM 9-1

WITH

Dated

For

Entered for record in the Recorder's

Office of

County, the day of

19

Tax \$

Fees \$

Recorder.

NOTARY PUBLIC, WILMINGTON, DE.

To Recorder of Deeds:

### Certificate of Residence

I, hereby certify that the correct address and place of residence of the grantee as follows:

herein

Attorney or Agent for Grantee

Recorded in the Office for Recording of Deeds, &c., in and for said County, in Deed Book No. Vol. , Page

Witness my Hand and Official Seal this day of , 19

Recorder of Deeds





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January 4, 2000

Regular Meeting Opened at 7:10PM

Meeting called to order by Chairman Weiler at 7:00 PM

Minutes approved

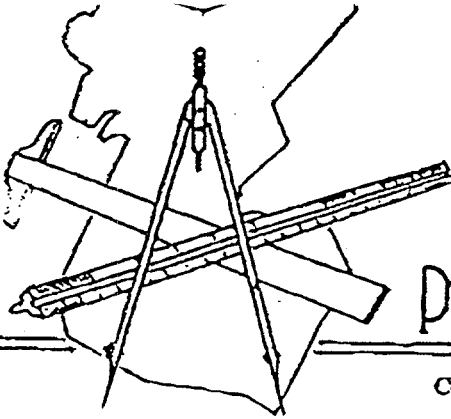
Treasurer report approved as read

The Supervisor's stated that no more sub-divisions will be approved until after the proposed Sub-Division ordinance for the Township has been approved. As soon as we get the review from the Planning commission and any changes that the Supervisors feel need to be made copies will be made available to the Public and a Public meeting will be held. It was stated that the County is now doing a "boiler plate" sub-division ordinance for those Township's who want it, but Jackson Township has already put a lot of time into the purpose ordinance and it was felt it was in the best interest of the Township to proceed with the ordinance that the Supervisor's have decided on.

Tom Wilson the Roadmaster stated that New Enterprise would fix Miller road To our satisfaction in the spring. He hopes to get bids on Sawmill & Yoder for sealing this summer depending on the price and how much money we have at the time.

Meeting was adj. at 7:35PM





HUNTINGDON COUNTY

PLANNING COMMISSION

(814) 643-5091

Court House - Huntingdon, Pennsylvania 16652

February 24, 2000

Mrs. Ann L. Wirth  
Jackson Township Secretary  
R.D. 1, Box 390  
Petersburg, PA 16669

RE: David and Sandra Corneal Minor Subdivision

Dear Mrs. Wirth:

The Huntingdon County Planning Commission has reviewed the above referenced proposal to subdivide a property containing 94.67 acres into three lots. Lot 2 (the residue) contains 64.12 acres; Lot 3 contains 4.75 acres and Lot 4 contains 25.80 acres. Lot 1 was previously subdivided and is not included in this proposal. The property is located on the east side of Saw Mill Road (T-527) in Jackson Township. It is our understanding that Jackson Township has placed a moratorium on new subdivisions pending the adoption of a Subdivision and Land Development Ordinance.

The staff of the Planning Commission offers the following comments for your consideration:

1. The proposal is consistent with the draft Huntingdon County Comprehensive Plan. The land use proposed by the Plan for this area is Low Intensity Residential Use.
2. There are several physical limitations evident at the location of this proposal. Steep slopes (over 15%) can be found near the eastern boundary of the property in this proposal. No building construction should take place in steep slope areas. The soil types At, Atkins Silt Loam, and Ph, Philo and Basher Silt Loam, exist along Laurel Run, which runs through all the proposed lots. These are hydric soils and are typically found in wetland areas and near streams. The proposed house, studio, and sewage system for Lot 2 are within these soil types.

Blazosky Associates, Inc conducted a Wetlands Investigation of the project area for the developer. Further investigation should be done prior to approval to identify if wetland areas exist at the proposed construction site due to the snow cover during the

investigation and because maps submitted with the investigation did not identify the areas studied. No construction should take place in wetlands areas. No floodplains exist in the area of this proposal.

3. The Jackson Township Supervisors are in the process of adopting a Subdivision and Land Development Ordinance. The following comments are based on the draft Jackson Township Subdivision and Land Development Ordinance:

4. A new street is proposed on the plat to provide access to the lots in this development. Private streets (streets not offered for dedication to the Township) are prohibited unless they meet the design standards of the Ordinance (Section 502.A.6). This proposal would not be classified as a minor subdivision by the Ordinance. The definition of a Minor Subdivision in Section 204 is any subdivision containing not more than 4 lots fronting an existing street.

5. The proposal must comply with all requirements of Section 402, Preliminary Plan, and Section 403, Final Plan.

6. The following information required by Section 402 does not appear on the plat submitted:

Existing contour lines (Section 402.A.9).

Location and width of all streets, easements, right-of-ways, with a statement of any conditions governing their use (Section 402.A.14.a).

Building Setback lines along each street (Section 402.A.14.b). Building Setbacks are as follows: 40' from all right-of-way lines, 15' from property lines (Section 504.C 4,5).

Stormwater management information (Section 402.A.17.a through c).

Supplementary data as applicable (Section 402.B).

Section 403 requirements A through B.

7. The proposed street must also comply with Section 502 of the Ordinance. This section contains the required widths and specifications for a minor street. The Huntingdon County Planning Commission proposed a private driveway standard to Jackson Township in comments of the draft Ordinance on February 4, 2000. This standard, if adopted, in the Ordinance would provide a minimum standard for streets of this type.

8. A stream crossing will be necessary for the street to provide access to the lots as proposed. The developer indicated that he acquired the permit for this crossing. A copy of this permit must be submitted with other data to the Township prior to approval.

9. A sewage easement is proposed for Lot 3 to use a portion of Lot 2 for the installation of a sewage system. The easement should be described on the submitted plat (bearings, distances, acreage) so that a description can be included in each lot deed affected.

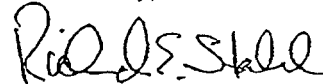
10. The developer's surveyor indicated on the plat that a boundary discrepancy exists between the residual lot (Lot 2) and the adjacent property owner. The Township's Solicitor may want to identify if any legal issues exist if the plan is approved without this boundary issue being resolved.

11. A DEP Sewage Facilities Planning Module Component 1 was submitted as part of this proposal. This module and accompanying data indicate soils suitable for on-lot sewage disposal.

12. The Huntingdon County Planning Commission recommends disapproval of this proposal due to both the moratorium and the above comments.

Please contact this office with any questions concerning these comments. As always, the local municipality is encouraged to carefully review the subdivision/sewage module for compliance with Township and State requirements.

Sincerely,



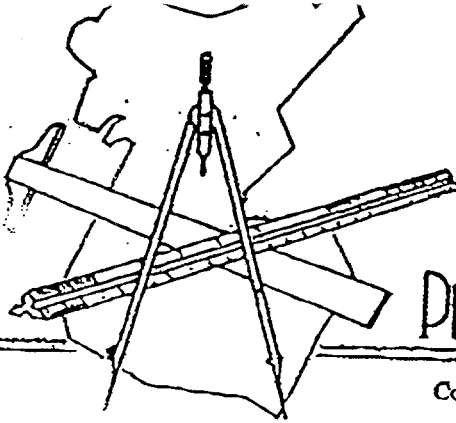
Richard E. Stahl  
Planning Director

DBY  
File GC, Sub, Mtg, C  
Pc: Corneal  
Simpson  
Rouzer



HUNTINGDON COUNTY

(814) 643-5091



PLANNING COMMISSION

Court House - Huntingdon, Pennsylvania 16652

April 20, 2000

Mrs. Ann L. Wirth  
Jackson Township Secretary  
R.D. 1, Box 390  
Petersburg, PA 16669

RE: David B. and Sandra Y. Corneal Minor Subdivision

Dear Mrs. Wirth:

The Huntingdon County Planning Commission has reviewed the above referenced proposal to subdivide a property containing 94.67 acres into two lots. A proposal was submitted at the March 22, 2000 Planning Commission meeting for this property as a three lot subdivision. This proposal is a resubmission. Lot 2 (the residue) contains 68.87 acres and Lot 3 contains 25.80 acres. Lot 1 was previously subdivided and is not included in this proposal. The property in this proposal is located on the east side of Saw Mill Road (T-527) in Jackson Township. It is our understanding that Jackson Township has placed a moratorium on new subdivisions pending the adoption of a Subdivision and Land Development Ordinance.

The staff of the Planning Commission offers the following comments for your consideration:

1. The proposal is consistent with the draft Huntingdon County Comprehensive Plan. The land use proposed by the Plan for this area is Low Intensity Residential Use.
2. There are several physical limitations evident at the location of this proposal. Steep slopes (over 15%) can be found near the eastern boundary of the property in this proposal. No building construction should take place in these steep slope areas. The soil types At, Atkins Silt Loam, and Ph, Philo and Basher Silt Loam, exist along Laurel Run, which runs through the proposed lots. These are hydric soils and are typically found in wetland areas and near streams. The proposed house, studio, and sewage system for Lot 2 are within these soil types.

Blazosky Associates, Inc conducted a Wetlands Investigation of the project area for the developer. A detailed map and study data identifying the investigation area was submitted and indicates that no wetlands are present at the location of the lots in this proposal. The Huntingdon County Conservation District has noted that widening of the existing lane to access the new dwelling on Lot 2 may impact potential wetland areas. Road improvements should be limited to existing cartway widths.

3. The Jackson Township Supervisors are in the process of adopting a Subdivision and Land Development Ordinance. The proposal appears to be in compliance with the regulations of the draft ordinance. The building setbacks shown on the plat are in compliance with the draft ordinance. The title certificate on the plat should be completed and notarized prior to recording of the plat.

4. A stream crossing will be necessary for the driveway for Lot 2 to provide access to the proposed structures shown on the plat. The developer indicated that he acquired the permit for this crossing. A copy of this permit must be submitted with other data to the Township prior to approval.

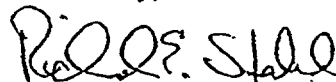
9. The developer's surveyor indicated on the plat that a boundary discrepancy exists between the residual lot (Lot 2) and the adjacent property owner. The Municipal Solicitor may want to identify the existence of any legal issues if the plan is approved without resolution of these boundary issues.

10. A DEP Sewage Facilities Planning Module Component 1 was submitted as part of this proposal. This module and accompanying data indicate soils suitable for on-lot sewage disposal.

11. The Huntingdon County Planning Commission recommends conditional approval of this proposal pending adoption of the Subdivision and Land Development Ordinance.

Please contact this office with any questions concerning these comments. As always, the local municipality is encouraged to carefully review the subdivision/sewage module for compliance with Township and State requirements.

Sincerely,



Richard E. Stahl  
Planning Director

DBY  
File:GC,Sub,Mtg,C  
Pc: Corneal  
Simpson  
Rouzer





*Law Office*  
**HARVEY B. REEDER**

504 Penn-Street  
Huntingdon, PA 16652

Phone: 814/643-3821

May 1, 2000

David B. Corneal, Esquire  
1445 West College Avenue  
State College, PA 16801

Re: John B. Hewett, Jr. and JoAnn F. Smith

Dear Mr. Corneal:

I am in receipt of your fax dated April 28, 2000. Please be advised that I represent John B. Hewett, Jr. and JoAnn F. Smith.

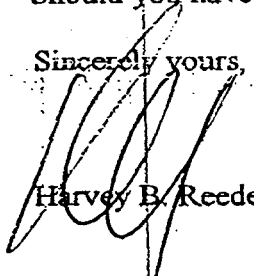
It is my understanding that there are some difficulties with the Township in obtaining subdivision approval. It is quite obvious to me that final settlement will not be able to take place on or before June 30, 2000.

My clients are not interested in any addendum to this Agreement and desire that the Agreement be terminated.

Accordingly, we would request that you return to us the down payment of \$4,000.00, together with the monthly payments totaling \$3,000.00 which have been made since November 7, 1999. We are returning the original map which you left with Mr. Hewett.

Should you have any questions, please feel free to contact me.

Sincerely yours,



Harvey B. Reeder

HBR:klb

Enclosure

cc: Mr. John B. Hewett, Jr.

WILSON, W. THOMAS  
05/18/01

CORNEAL VS  
JACKSON TOWNSHIP, ET AL

DEFENDANT'S  
EXHIBIT

2

1                               IN THE UNITED STATES DISTRICT COURT  
2                               FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
3       DAVID B. CORNEAL and SANDRA :  
4       Y. CORNEAL, :  
5       PLAINTIFFS :  
6                               VS : NO. 1:CV-00-1192  
7                               JACKSON TOWNSHIP, HUNTINGDON :  
8       COUNTY, PENNSYLVANIA; W. :  
9       THOMAS WILSON, individually :  
10      and in his official capacity :  
11      as Supervisor of Jackson :  
12      Township; MICHAEL YODER, :  
13      individually and in his :  
14      official capacity as :  
15      Supervisor of Jackson :  
16      Township; RALPH WEILER, :  
17      individually and in his :  
18      official capacity as :  
19      Supervisor of Jackson :  
20      Township; BARRY PARKS, :  
21      individually and in his :  
22      official capacity as Sewage :  
23      Enforcement Officer of :  
24      Jackson Township; DAVID :  
25      VAN DOMMELEN, individually :  
26      and in his official capacity :  
27      as Building Permit Officer; :  
28      ANN L. WIRTH, individually :  
29      and in her official capacity :  
30      as Secretary of Jackson :  
31      Township; and LARRY NEWTON, :  
32      individually and in his :  
33      official capacity as :  
34      Solicitor to Jackson :  
35      Township, :  
36                               DEFENDANTS :  
37                               DEPOSITION OF: W. THOMAS WILSON  
38                               TAKEN BY: PLAINTIFFS  
39                               BEFORE: TERESA K. BEAR, REPORTER  
40   NOTARY PUBLIC  
41                               DATE: MAY 18, 2001, 8:43 A.M.  
42                               PLACE: ECKERT SEAMANS  
43   213 MARKET STREET  
44   HARRISBURG, PENNSYLVANIA

**WILSON, W. THOMAS**  
**05/18/01**

**CORNEAL VS**  
**JACKSON TOWNSHIP, ET AL**

<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2 ECKERT SEAMANS</p> <p>3 BY: BRIDGET E. MONTGOMERY, ESQUIRE</p> <p>4 LESLIE A. MALADY, ESQUIRE</p> <p>5 FOR - PLAINTIFFS</p> <p>6 MAYERS, MENNIES &amp; SHERR, LLP</p> <p>7 BY: ANTHONY R. SHERR, ESQUIRE</p> <p>8</p> <p>9 FOR - ALL DEFENDANTS EXCEPT NEWTON</p> <p>10</p> <p>11 METTE, EVANS &amp; WOODSIDE</p> <p>12 BY: JENNIFER YANKANICH, ESQUIRE</p> <p>13 FOR - DEFENDANT - LARRY NEWTON</p> <p>14 ALSO PRESENT:</p> <p>15 DAVID B. CORNEAL</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 W. THOMAS WILSON, called as a witness, being</p> <p>2 sworn, testified as follows:</p> <p>3</p> <p>4 DIRECT EXAMINATION</p> <p>5</p> <p>6 BY MS. MONTGOMERY:</p> <p>7 Q Mr. Wilson, would you state your name for the</p> <p>8 record.</p> <p>9 A <b>W. Thomas Wilson.</b></p> <p>10 Q I don't think we've met except briefly the</p> <p>11 other day.</p> <p>12 A <b>Yeah, just upstairs, yes.</b></p> <p>13 Q I'm Bridget Montgomery and I think, as you</p> <p>14 know, I represent the Corneals in this case. We're here to</p> <p>15 take your deposition today and ask you a -- have you ever</p> <p>16 had your deposition taken before?</p> <p>17 A <b>No.</b></p> <p>18 Q I'll just give you a little bit of the ground</p> <p>19 rules then. I'm just going to ask you a series of questions</p> <p>20 designed to get some facts. If you don't understand any</p> <p>21 question, I want you to ask me to clarify it and I'll be</p> <p>22 happy to do that.</p> <p>23 You should feel free to take a break whenever</p> <p>24 you feel that you need to. Not to confer with your counsel,</p> <p>25 but if you need to go to the men's room or something like</p>
<p style="text-align: right;">3</p> <p>1 TABLE OF CONTENTS</p> <p>2 WITNESS</p> <p>3 FOR PLAINTIFFS DIRECT CROSS REDIRECT RECROSS</p> <p>4 W. Thomas Wilson</p> <p>5 By Ms. Montgomery 4 -- 191 --</p> <p>6 By Ms. Yankanich -- 189 -- 192</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 WILSON EXHIBIT NO. PRODUCED AND MARKED</p> <p>10 1 - Order 20</p> <p>11 2 - Sewage facilities planning module 62</p> <p>12 3 - Subdivisions reviewed by HCPC 120</p> <p>13 4 - Minutes dated 4/3/00 134</p> <p>14 5 - Packet of documents 143</p> <p>15 6 - Subdivision plan 143</p> <p>16 7 - Subdivision and land development 146</p> <p>17 ordinance Jackson Township</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">5</p> <p>1 that, or if you get really tired -- sometimes these things</p> <p>2 can go on for a long time and we want you to be comfortable.</p> <p>3 For the court reporter's sake, you need to</p> <p>4 keep your voice up. You need to speak clearly, keep your</p> <p>5 voice up and let me finish my sentence and then I'll try to</p> <p>6 let you finish your sentence because she can't take down two</p> <p>7 people at once -- she can't take down two people talking at</p> <p>8 once. She also needs you to use verbal responses.</p> <p>9 A <b>I didn't think she could do that.</b></p> <p>10 <b>(Indicating.)</b></p> <p>11 Q She can't do that.</p> <p>12 A <b>Right.</b></p> <p>13 Q You can't do that. So the other thing is I</p> <p>14 want to make sure that there's no reason why you can't give</p> <p>15 testimony today. For example, are you on any kind of</p> <p>16 medication that would prevent you from understanding the</p> <p>17 questions or anything like that?</p> <p>18 A <b>None.</b></p> <p>19 Q Where do you live?</p> <p>20 A <b>R.D. 1, Box 420, Petersburg, Pennsylvania.</b></p> <p>21 Q Is Petersburg in Jackson Township?</p> <p>22 A <b>Yes.</b></p> <p>23 Q How long have you lived there?</p> <p>24 A <b>Approximately 20 years at that location.</b></p> <p>25 Q Where did you live prior to that?</p>

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<p style="text-align: right;">6</p> <p>1 A I don't -- it's R.D. 1, Petersburg, but I</p> <p>2 don't know what the box -- they've changed box numbers so I</p> <p>3 don't know what it would be. Approximately three miles from</p> <p>4 where I live now.</p> <p>5 Q Also in Jackson Township?</p> <p>6 A Yes.</p> <p>7 Q And how long did you live there?</p> <p>8 A Twenty-five years.</p> <p>9 Q Have you lived in Jackson Township all your</p> <p>10 life?</p> <p>11 A Yes.</p> <p>12 Q And I don't want to be too nosey but how old</p> <p>13 are you?</p> <p>14 A Fifty-eight.</p> <p>15 Q I'm going to ask you a question about a</p> <p>16 document that's been marked before, but we'll mark it</p> <p>17 again.</p> <p>18 MS. MONTGOMERY: This is going to be Wilson</p> <p>19 Exhibit 1. I'm going to mark that and hand it to the</p> <p>20 witness.</p> <p>21 (Order produced and marked as Wilson Exhibit</p> <p>22 No. 1.)</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q Mr. Wilson, have you seen this court order</p> <p>25 before?</p>	<p style="text-align: right;">8</p> <p>1 A No.</p> <p>2 Q Did you have an opportunity to talk with any</p> <p>3 of the other defendants about their testimony?</p> <p>4 A No.</p> <p>5 Q Who did you drive down here with today?</p> <p>6 A Ann Wirth and Mike Yoder.</p> <p>7 Q So Ann Wirth came back today for these</p> <p>8 proceedings?</p> <p>9 A Yes, she knows Harrisburg. We -- so she got</p> <p>10 us into the parking garage.</p> <p>11 Q So she drove down with you today and she's</p> <p>12 going to wait all day and drive back with you today?</p> <p>13 A Yes.</p> <p>14 Q Mr. Wilson, in connection with this litigation</p> <p>15 have you performed a search for documents?</p> <p>16 A No.</p> <p>17 Q Did anybody ask you to perform a search for</p> <p>18 documents?</p> <p>19 A No.</p> <p>20 Q Do you keep any documents at your home --</p> <p>21 A No.</p> <p>22 Q -- related to -- I'm sorry, related to</p> <p>23 township business?</p> <p>24 A No.</p> <p>25 Q Have you ever seen a request for production of</p>
<p style="text-align: right;">7</p> <p>1 A No.</p> <p>2 Q Do you want to take a moment and look at it.</p> <p>3 A Okay.</p> <p>4 Q Do you understand the order?</p> <p>5 A Yes.</p> <p>6 Q What do you understand it to say?</p> <p>7 A I'm not supposed to talk to any of the other</p> <p>8 defendants.</p> <p>9 Q About?</p> <p>10 A This proceeding.</p> <p>11 Q About your testimony or about their testimony?</p> <p>12 A Yes.</p> <p>13 Q You're also not supposed to talk to your</p> <p>14 counsel and your counsel is not supposed to talk to you</p> <p>15 about their testimony. Do you understand that?</p> <p>16 A Right.</p> <p>17 Q Did you become aware of this order on the day</p> <p>18 it was entered, on May 16, 2001?</p> <p>19 A Yes.</p> <p>20 Q Just two days ago?</p> <p>21 A Yeah.</p> <p>22 Q Have you complied with the order to date?</p> <p>23 A Yes.</p> <p>24 Q Have you talked with any of the other</p> <p>25 defendants about their testimony?</p>	<p style="text-align: right;">9</p> <p>1 documents? Let me just show it to you. I'm not going to</p> <p>2 make this part of the record, but anybody that wants to look</p> <p>3 at it can look at it. Have you ever seen this document?</p> <p>4 MS. MONTGOMERY: Let the record reflect --</p> <p>5 THE WITNESS: I can't see quite as well as I</p> <p>6 used to.</p> <p>7 MS. MONTGOMERY: Sure. Let the record reflect</p> <p>8 I'm showing him the request for production of documents that</p> <p>9 was served upon the defendants in this case by plaintiffs.</p> <p>10 THE WITNESS: I never seen this.</p> <p>11 BY MS. MONTGOMERY:</p> <p>12 Q Did you know about it? Did you know that</p> <p>13 there was a request for production of documents outstanding</p> <p>14 in this case?</p> <p>15 A No.</p> <p>16 Q Not until this moment?</p> <p>17 A No.</p> <p>18 Q Is that a yes, not until this moment?</p> <p>19 A No, I didn't know.</p> <p>20 Q Until this very moment?</p> <p>21 A Right.</p> <p>22 Q Did Miss Wirth talk to you about the fact that</p> <p>23 she needed to gather documents in this case?</p> <p>24 A No.</p> <p>25 Q Did you bring any documents with you?</p>

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<p style="text-align: right;">10</p> <p>1 A No.</p> <p>2 Q Did you discuss with anybody whether you</p> <p>3 should bring any documents with you?</p> <p>4 A No.</p> <p>5 Q Did you talk to Barry Parks about whether or</p> <p>6 not he ought to bring any documents to his deposition?</p> <p>7 A No.</p> <p>8 Q Now, I'm going to represent to you that Mr.</p> <p>9 Parks testified that the supervisors told him he shouldn't</p> <p>10 bring any documents to his deposition. Do you know who told</p> <p>11 him that?</p> <p>12 A No.</p> <p>13 Q I'm going to talk to you a little bit about</p> <p>14 your educational background. What's your last -- the</p> <p>15 highest degree of education that you completed?</p> <p>16 A <b>High school.</b></p> <p>17 Q Did you finish high school?</p> <p>18 A <b>Yes.</b></p> <p>19 Q You attended up there in Jackson Township?</p> <p>20 A <b>Huntingdon.</b></p> <p>21 Q In Huntingdon?</p> <p>22 A <b>Yes.</b></p> <p>23 Q Have you had any post high school education?</p> <p>24 A <b>Two years at Penn State in turf management,</b></p> <p>25 <b>agronomy department.</b></p>	<p style="text-align: right;">12</p> <p>1 A No.</p> <p>2 Q How many people work for you?</p> <p>3 A <b>Five.</b></p> <p>4 Q Five people other than the two of you?</p> <p>5 A <b>Yes.</b></p> <p>6 Q How long have you been performing excavating</p> <p>7 work?</p> <p>8 A <b>Twelve years.</b></p> <p>9 Q What did you do prior to that?</p> <p>10 A <b>I was the golf course superintendent at the</b></p> <p>11 <b>Elk's Country Club in Boalsburg.</b></p> <p>12 Q Boalsburg?</p> <p>13 A <b>Yes.</b></p> <p>14 Q Is that in Huntingdon County?</p> <p>15 A <b>No, Centre County.</b></p> <p>16 Q And how long did you hold that position?</p> <p>17 A <b>Twenty-one years.</b></p> <p>18 Q So that would take you back to the time that</p> <p>19 you were about 25, right?</p> <p>20 A <b>In that -- in that area. A long time ago,</b></p> <p>21 <b>yes.</b></p> <p>22 Q What did you do prior to that?</p> <p>23 A <b>I lived in Colorado for eight months. Not</b></p> <p>24 <b>long enough to become a resident, but I took courses through</b></p> <p>25 <b>the extension service of Colorado State and that's where I</b></p>
<p style="text-align: right;">11</p> <p>1 Q When did you do that?</p> <p>2 A <b>Seventy-eight, '79.</b></p> <p>3 Q Did you receive any sort of degree from that?</p> <p>4 A <b>No.</b></p> <p>5 Q Do you hold any certificates or licenses of</p> <p>6 any other type -- of any type, I should say?</p> <p>7 A <b>No.</b></p> <p>8 Q Have you done any other training of any sort?</p> <p>9 A <b>No.</b></p> <p>10 Q What do you do for a living?</p> <p>11 A <b>Excavating.</b></p> <p>12 Q Excavating?</p> <p>13 A <b>Yeah.</b></p> <p>14 Q Do you have your own company?</p> <p>15 A <b>I work for Eagle Excavation.</b></p> <p>16 Q Who owns Eagle Excavation?</p> <p>17 A <b>It is a corporation and my son and I have</b></p> <p>18 <b>control of the stock.</b></p> <p>19 Q So do you own equal shares of the stock?</p> <p>20 A <b>Yes.</b></p> <p>21 Q Are you the president?</p> <p>22 A <b>Yes.</b></p> <p>23 Q Is your son the vice-president?</p> <p>24 A <b>No, secretary/treasurer.</b></p> <p>25 Q Do you have a vice-president?</p>	<p style="text-align: right;">13</p> <p>1 <b>got into turf management.</b></p> <p>2 Q So you started your education at Colorado</p> <p>3 State?</p> <p>4 A <b>Yes.</b></p> <p>5 Q Did you attend any other colleges or</p> <p>6 universities or --</p> <p>7 A <b>No.</b></p> <p>8 Q -- secondary schooling of any type?</p> <p>9 A <b>No.</b></p> <p>10 Q Just in the course of your life, really, have</p> <p>11 you taken any other -- even initiated any other training of</p> <p>12 any type in any field in -- you know, even just as a hobby?</p> <p>13 A <b>No.</b></p> <p>14 Q Now, are you a township supervisor in Jackson</p> <p>15 Township?</p> <p>16 A <b>Yes.</b></p> <p>17 Q How long have you held that position?</p> <p>18 A <b>A little over five years.</b></p> <p>19 Q Had you held any other position with Jackson</p> <p>20 Township prior to that?</p> <p>21 A <b>None.</b></p> <p>22 Q Did you run for township supervisor or were</p> <p>23 you initially appointed or what?</p> <p>24 A <b>I ran for the office.</b></p> <p>25 Q You ran for the office?</p>

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1 A Yes.  
 2 Q And the first time you ran for the office was  
 3 five years ago?  
 4 A Yes.  
 5 Q How long is the term of appointment?  
 6 A Six years.  
 7 Q Are you going to run again?  
 8 A I submitted a petition. I will be on the  
 9 ballot in the fall.  
 10 Q What are your duties as a township supervisor?  
 11 A To look out for the welfare of the citizens of  
 12 that township.  
 13 Q How many supervisors are there in the  
 14 township?  
 15 A Three.  
 16 Q Is that the full complement? Are there any  
 17 missing or open seats or anything?  
 18 A No.  
 19 Q Who's the chairman of the board of  
 20 supervisors?  
 21 A Mike Yoder.  
 22 Q Have you ever been the chairman?  
 23 A No.  
 24 Q How long is the term of the chairman?  
 25 A That is set annually, each year.

16

1 So my primary duties are taking care of the roads and  
 2 bridges in the township.  
 3 Q So you're the road master as well as a  
 4 township supervisor?  
 5 A Yes.  
 6 Q What is the -- is the road master an office  
 7 within the township or what is it?  
 8 A It is a position that has been on the books as  
 9 long as I can remember in townships, rural townships.  
 10 Q Is it a paid position?  
 11 A Hourly.  
 12 Q It's hourly. So whenever the township needs  
 13 work on the roads, you do it on behalf of the township --  
 14 A Yes.  
 15 Q -- and you just bill the township?  
 16 A (Witness nods head affirmatively.)  
 17 Q What about your job as township supervisor,  
 18 how does that pay?  
 19 A \$125 a month.  
 20 Q How much time do you put into your job as  
 21 township supervisor?  
 22 A I don't know the exact hours.  
 23 Q Does it vary?  
 24 A Yes.  
 25 Q So you're the road master. What else do you

15

1 Q Has Mike Yoder been the chairman right along  
 2 since you've been on the board?  
 3 A No.  
 4 Q Who else was the chairman?  
 5 A Ralph Weiler.  
 6 Q Can you give me the names of the other two  
 7 township supervisors currently?  
 8 A Yes, Ralph Weiler and Mike Yoder.  
 9 Q And how long have they held those positions,  
 10 their positions?  
 11 A I can't say on Ralph. All I know is it's a  
 12 long time. I have no -- but Mike's been on for six years.  
 13 Q Were you on the -- were they both on the board  
 14 of supervisors when you joined the board?  
 15 A No.  
 16 Q Who came second, Weiler?  
 17 A No.  
 18 Q Who came after you?  
 19 A No, Mike.  
 20 Q Mike came after you. So you gave me the  
 21 general description of your responsibility as a township  
 22 supervisor. Can you now give me a detailed description of  
 23 the types of duties that you have to fulfill?  
 24 A I was appointed at the annual meeting, which  
 25 is a reorganization meeting in January, to be road master.

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1 have to do as a township supervisor?  
 2 A Attend meetings, overview on land development  
 3 and subdivisions, answer questions from the citizens.  
 4 Q Let's take the first one. What was the first  
 5 one you said?  
 6 A Overview of subdivision and land use.  
 7 Q What do you do in your role as a township  
 8 supervisor in connection with subdivision and land use, is  
 9 that what you said?  
 10 A Yes. The paperwork usually -- subdivision or  
 11 land use usually comes to the supervisors by an engineer or  
 12 a surveyor, that type of thing, and is laid out on the table  
 13 to -- for the township to review.  
 14 Q When do you do that review, at the township  
 15 meetings or in your spare time or what?  
 16 A We review them at the meeting.  
 17 Q Just during the meeting?  
 18 A Yes.  
 19 Q Do you sometimes come early to the meeting to  
 20 review them or anything or they just get opened up at the  
 21 meeting?  
 22 A No, they get opened at the meeting.  
 23 Q What does an application for a subdivision  
 24 look like? What does it consist of? What is every document  
 25 that it consists of?



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1 A Well, there's only -- the application, there's  
 2 one sheet of what is required. And then the engineer or  
 3 architect or surveyor, they're familiar with our county and  
 4 the things that are on there that come in, all the necessary  
 5 things for our subdivision are on there.  
 6 Q Like what?  
 7 A The landmarks, wetlands, streams, highways,  
 8 trails, all these things are on there.  
 9 Q What else is in -- I mean, if you're at a  
 10 meeting and you are handed a proposed subdivision plan, what  
 11 all are you going to have to look at at that meeting at that  
 12 time?  
 13 A The plan.  
 14 Q Just the --  
 15 A Yeah, one of those, a big sheet, yes.  
 16 Q So a map basically?  
 17 A And the presenter usually asks if there are  
 18 any questions that he can answer while he's there.  
 19 Q Are there any attachments to it?  
 20 A Yes.  
 21 Q Like what?  
 22 A There's -- they have to have the modules, the  
 23 location, seven and a half minute quad angle map which  
 24 determines the location. It's a government map.  
 25 Q For the sewer modules you mean?

19

1 A For the plan, the subdivision.  
 2 Q What else? Anything else?  
 3 A Usually once that's done there's a -- a  
 4 procedure that the surveyor or engineer brings in which is  
 5 the narrative and all these things contained -- concerning  
 6 the subdivision.  
 7 Q Well, what are all these things concerning the  
 8 subdivision?  
 9 A All the -- all the lots that are proposed and  
 10 the roads that are proposed. All the things pertaining to  
 11 that development.  
 12 Q Let's talk about the sewer module for a  
 13 minute. What do you expect to see with the sewer module?  
 14 A The sewer module will have on there the  
 15 proposed dwellings with the amount of gallon each per day  
 16 generated for the site.  
 17 Q And would it have markings on it to show where  
 18 possible sewage sites could be?  
 19 A Well, the map will show all the probes and  
 20 percs on the whole property that were done.  
 21 Q Are these approved probes and percs, you mean?  
 22 A Yes.  
 23 Q So when the subdivision plan comes to you,  
 24 it's already -- it already has a sewer module attached to  
 25 it. And in order for you to approve it, it has to have an

20

1 approved sewer module, correct, an approved -- I'm sorry,  
 2 approved sewage sites, correct?  
 3 A Yes.  
 4 Q How do you tell that there's an approved  
 5 sewage site?  
 6 A The work is done by the SEO.  
 7 Q And the SEO, for the record, is?  
 8 A Barry Parks. And he generates -- there has to  
 9 be an application and then he generates from the field work  
 10 what the perc rates are for each site and these are given to  
 11 the designer to design a system for each site.  
 12 Q I'm going to show you a document that we're  
 13 going to mark as Wilson Exhibit 2.  
 14 (Sewage facilities planning module produced  
 15 and marked as Wilson Exhibit No. 2.)  
 16 BY MS. MONTGOMERY:  
 17 Q I'd ask you to look at that, Mr. Wilson. Do  
 18 you know what this document is?  
 19 A Yeah, it's a sewer planning module.  
 20 Q As you look through this document, does it  
 21 have everything on there that you would need to see with  
 22 respect to the sewage sites for purposes of approving a  
 23 subdivision plan?  
 24 A If this was setting in front of me at the  
 25 meeting, questions would be raised of why a new sewage

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1 module wasn't generated because this has been reworked.  
 2 Q Because what's been reworked?  
 3 A It's been reworked.  
 4 Q I'm not sure I understand what you mean. What  
 5 has been reworked?  
 6 A Well, there's things on here that have been  
 7 changed.  
 8 Q Well, what do you see that's been changed?  
 9 A Well, the number of lots.  
 10 Q Okay. So it went from a higher number of lots  
 11 to a lower number of lots, right?  
 12 A Yeah, if I was looking at this, I would want  
 13 to see the map too, of which I assume there's one that ...  
 14 Q Well, let's look at page 5. Do you see up in  
 15 Section H where you have the signature of Barry Parks?  
 16 A Um-hum.  
 17 Q Is that one of the things you'd look for to  
 18 see whether or not there's -- whether the lot is suitable  
 19 for on-site sewage, look for his signature up in that --  
 20 A Yes.  
 21 Q Let's look at page -- well, there's some  
 22 attachments so you'll have to go after page 9 to the site  
 23 investigation and percolation test reports. Would you look  
 24 at each one of these site investigation and percolation test  
 25 reports for the signature of the sewage enforcement officer?



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1 A No.  
 2 Q You wouldn't look at that?  
 3 A No.  
 4 Q Why not?  
 5 A If it's gone that far, it has been through his  
 6 process. And he's hired by the township to take care of  
 7 these things. And when these things come in, this sheet  
 8 will come with a design for him to either approve or  
 9 disapprove.  
 10 Q A design of what?  
 11 A An on-lot sewage system.  
 12 Q When they come into -- when the subdivision  
 13 plan comes to you, it comes with the design of an on-lot  
 14 sewage system?  
 15 A No.  
 16 Q As long as you see that he signed off back  
 17 here, is that what you're concerned with, when we went back  
 18 here to page 5?  
 19 A These modules -- when the plans come in and  
 20 the modules are there, Parks says -- I'm sorry, Barry Parks,  
 21 the sewage officer, is at the meeting to explain the soil  
 22 modules in reference to the subdivision.  
 23 Q Let me ask you this: Do you understand the  
 24 process to be that the sewer modules -- sewage modules have  
 25 to be approved first and then you get an on-lot sewage

23

1 system designed? Do you understand that to be the process?  
 2 A I don't remember.  
 3 Q That's fine if you don't remember. That's  
 4 fine. The document that you're looking at right now, Wilson  
 5 Exhibit 2, is a sewage facilities planning module for the  
 6 Corneal property, correct?  
 7 A That's what it states, yes.  
 8 Q When you said it was reworked, are you looking  
 9 at Section 2 of page 1?  
 10 A Yes.  
 11 Q And how was it reworked there?  
 12 A Creation of a different amount of lots.  
 13 Q So it went from what?  
 14 A I'm sorry. Apparently that's a three under  
 15 there to a two.  
 16 Q How else was it reworked that would raise  
 17 questions for you?  
 18 A That question right there I would pose to our  
 19 sewage officer.  
 20 Q Would you be concerned that it went to fewer  
 21 lots or would you be concerned if it went to more lots?  
 22 A Not concerned as long as the sewage work was  
 23 there.  
 24 Q Now, let's talk a little bit more about your  
 25 work in excavation. Do you perform excavation work in

24

1 connection with the installation of septic systems?  
 2 A We install -- the company Eagle installs  
 3 on-lot sewage systems.  
 4 Q Is that primarily what Eagle Excavation does  
 5 or is there other types of excavating work that it does?  
 6 A Other types.  
 7 Q What else does it do?  
 8 A Land clearing, road building, foundation  
 9 digging, water sewer lines and we repair septic systems.  
 10 Q So let me ask you this question: If you had a  
 11 site that was contemplated for a septic system and it had in  
 12 some way been disturbed, do you know what you would do in  
 13 order to bring the site back to the way it had been before  
 14 it had been disturbed? Do you re-excavate, that's really my  
 15 question?  
 16 A No.  
 17 Q What do you do?  
 18 A I don't know.  
 19 Q Say that you had an approved sewage site --  
 20 have you ever had the situation where you've had an approved  
 21 sewage site and somebody drove over it, drove over the  
 22 site --  
 23 A No.  
 24 Q -- and you said, oh, the soil is compacted.  
 25 You never had a soil compaction problem for a sewage site

25

1 before?  
 2 A No.  
 3 Q Ever?  
 4 A Ever.  
 5 Q You never faced it?  
 6 A Never.  
 7 Q So do you know as an excavator and somebody  
 8 who excavates for the installation of septic systems what  
 9 you would do if a site was compacted by having been driven  
 10 over a few times? Do you know what you would do?  
 11 A If I had a contractor construct a site there,  
 12 the sewage officer would be informed right away.  
 13 Q But do you know what an excavation company  
 14 would do to fix it?  
 15 MR. SHERR: Objection.  
 16 BY MS. MONTGOMERY:  
 17 Q Do you have any idea?  
 18 MR. SHERR: It's been asked and answered.  
 19 MS. MONTGOMERY: I'm asking if he knows what  
 20 he would do.  
 21 MR. SHERR: And he said he didn't already.  
 22 You can answer her question.  
 23 THE WITNESS: I don't know.  
 24 BY MS. MONTGOMERY:  
 25 Q You wouldn't know how to fix it?

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1 MR. SHERR: Objection, asked and answered for  
 2 the fourth time. You can answer it again.

3 THE WITNESS: My experience in 12 years is  
 4 that it can't be fixed.

5 BY MS. MONTGOMERY:

6 Q So you do think you know whether or not it  
 7 could be fixed? What is your experience in 12 years?

8 A My experience in --

9 MR. SHERR: Objection. It's a compound  
 10 question. Which question would you like him to answer?

11 BY MS. MONTGOMERY:

12 Q So you do think it can't be fixed?

13 A That's -- yes.

14 Q Why is that?

15 A Whenever I go to the sewage seminars, that is  
 16 one of the things that's drilled into us as contractors,  
 17 don't touch a site, don't get near it.

18 Q But then do they tell you -- if somebody does  
 19 get near it, do they tell you what to do?

20 A Yes.

21 Q What's that?

22 A The sewage officer rejects it.

23 Q That's what they taught you in the seminar?

24 A Yes.

25 Q Going one step further, you said in my

28

1 A That's up to the land owner.

2 Q What kind of professional does the perc tests?

3 A The perc test is done by the sewage officer.

4 Q All right. And then what?

5 A Once that's done, the -- that sheet is  
 6 generated like back here with his -- with his results.

7 Q With the sewage officer's results?

8 A Yes.

9 Q So let the record reflect that you're  
 10 referring to the percolation test report, site investigation  
 11 and percolation test reports on Wilson Exhibit 2, correct?

12 A Yes.

13 Q So those are generated next and then what  
 14 happens?

15 A The property owner takes these to a designer  
 16 and has a design constructed for bidding purposes to put a  
 17 system in there.

18 Q So the property owner takes the approved  
 19 sewage facilities planning module to somebody for design,  
 20 correct?

21 A That I don't know. The only -- my experience  
 22 is that the soil -- the application for on-lot sewage and  
 23 the soil work-up sheet from the sewage officer is all I've  
 24 ever seen from designers to use.

25 Q The application you're -- tell me that again.

27

1 experience in 12 years -- I think this was your testimony.

2 It can't be fixed, is that what you said?

3 A Yes.

4 Q I'm just going to ask you a little bit more  
 5 about what you know about the whole process for approval of  
 6 a sewage system. Now, in your work as an excavator are you  
 7 expected to understand the process for sewage system  
 8 approval for on-lot sewage systems?

9 A No.

10 Q In your work as a supervisor are you expected  
 11 to know the process?

12 A Yes.

13 Q So do you understand the process and can you  
 14 explain it to me?

15 A Initially the property owner calls -- they  
 16 usually call a contractor and we recommend that we can't do  
 17 anything till the sewage officer is called. And then the  
 18 sewage officer will set up a schedule where the backhoe can  
 19 meet there with the sewage officer and usually the property  
 20 owner and soil probes -- soil logs are dug.

21 Q And then what?

22 A Once the -- there's verification from the  
 23 sewage officer that there's suitable soil there for on-lot,  
 24 there's a direction made to do perc tests.

25 Q And who does the perc tests?

29

1 I'm sorry, I missed it.

2 A Application for on-lot sewage.

3 Q And?

4 A On there it has proposed bedrooms of the house  
 5 and location of the house -- proposed location of the house,  
 6 proposed well. All these things are taken into  
 7 consideration by the designer.

8 Q And then he designs a septic system suitable  
 9 for the property?

10 A That site.

11 Q For that site?

12 A (Witness nods head affirmatively.)

13 Q Now, if there's more than one approved site  
 14 investigation -- well, I should say if there's more than one  
 15 approved sewage site, could you expect that the septic  
 16 system designer could design one for any one of those  
 17 approved sites?

18 A With the proper material.

19 Q With the proper material. What do you mean by  
 20 material?

21 A The application with the proposed building,  
 22 the size of the building, the wells, the location, all those  
 23 things, and the slopes.

24 Q Well, I'll ask it to you slightly  
 25 differently. If there are a number of approved by Barry

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<p style="text-align: right;">30</p> <p>1 Parks, site investigation and percolation test reports, is  2 it permissible -- is it your understanding that it's  3 permissible to place a septic system at any one of those  4 approved sites?  5 A No.  6 Q Why is that?  7 A Not except where the site is specific, where  8 that building is going to go.  9 Q Right.  10 A Yes.  11 Q It's your understanding that it has to be a  12 specific site for where the building is going to be? I'm  13 not sure I understand you.  14 A Where there's a proposed site, usually there's  15 a proposed home going to be there and a well and everything  16 with that.  17 Q So could there be more than one site approved  18 by the sewage officer for the proposed building?  19 A All the approved sites that he approves are  20 suitable for a building.  21 Q Prior to joining the board of supervisors,  22 were you under contract to the township for any work at any  23 time?  24 A No.  25 Q No?</p>	<p style="text-align: right;">32</p> <p>1 association, PSATS.  2 Q The Pennsylvania Association of Township  3 Supervisors?  4 A Yes.  5 Q Do you consult with anybody else about  6 enacting ordinances?  7 A I believe now things are -- I believe that the  8 township solicitor is asked to look at it to see if it meets  9 legal requirements.  10 Q The township solicitor is?  11 A Larry Newton.  12 Q How long has he been the township solicitor?  13 A I don't know.  14 Q Has he been there since you've been there?  15 A Yes.  16 Q As a township supervisor?  17 A Yes.  18 Q So if you have any questions about whether or  19 not an ordinance is appropriate, you consult the solicitor?  20 A Yes.  21 Q Do you know whether or not you are supposed to  22 make copies of the ordinances available for the public?  23 A Yes.  24 Q You are supposed to?  25 A Yes.</p>
<p style="text-align: right;">31</p> <p>1 A No.  2 Q Prior to becoming the road master, did you  3 perform any roadwork for the township?  4 A No.  5 Q In your capacity as a township supervisor, are  6 you familiar with the requirements for enacting ordinances?  7 A I don't understand.  8 Q As a township supervisor, do you know what you  9 have to do to enact an ordinance for the township?  10 A Yes.  11 Q What do you have to do?  12 A The ordinance is drawn up and discussed, the  13 supervisors discuss this, and it's -- and when it's pulled  14 together, typed up and ready for adoption, there's an ad put  15 in the newspaper to advertise it. And there's so many days,  16 and I -- I don't know what that -- off the top I don't know  17 what that is.  18 So many days that that has to be open for  19 public review and then there will be a -- once that's done,  20 there is another notice put in that the ordinance will be  21 adopted a certain time and date.  22 Q How do you know how to enact an ordinance?  23 Who did you consult with to figure out how to enact an  24 ordinance?  25 A Those things come out of the state</p>	<p style="text-align: right;">33</p> <p>1 Q Where do you keep them?  2 A There's -- I'm going back here now. There was  3 copies made of the subdivision and land use ordinance and it  4 was advertised in the paper that they were available for --  5 I think it was five dollars. And we -- we don't have the  6 money that we went out and made lots of those things.  7 Usually people would call and we would have to go to  8 someplace that does that for us because we don't have those  9 facilities.  10 Q Like a copy center you mean?  11 A Yes, yes, and run them off, but there -- as  12 far as I know there is no reserve. It's a --  13 Q Do you know how they're kept? Do you know how  14 the ordinances are kept? In what form, is really what I'm  15 asking you?  16 A I think just in the filing cabinet in folders.  17 Q In folders in Ann Wirth's office?  18 A Yes.  19 Q What about the proposed ordinances, do you  20 make them available to the public?  21 A Proposed ordinance.  22 Q Before the ordinance is actually enacted.  23 A Yes, we -- that's law.  24 Q So if somebody wants to see it, you make  25 arrangements for them to get a copy of it?</p>

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<p style="text-align: right;">34</p> <p>1 A Yes.</p> <p>2 Q Do you think that that's -- they're entitled</p> <p>3 to it?</p> <p>4 A Yes.</p> <p>5 Q Do you hold any hearings on the proposed</p> <p>6 ordinances when you -- I know you haven't had a lot of</p> <p>7 ordinances in your township, but to the extent you have, do</p> <p>8 you hold public hearings on the ordinances?</p> <p>9 A <b>There again, it's advertised in the paper that</b></p> <p>10 <b>the ordinance is available for review.</b></p> <p>11 Q And then what would you expect, if the public</p> <p>12 has anything to say about it they would come to the township</p> <p>13 meetings?</p> <p>14 A <b>Or call.</b></p> <p>15 Q Or call?</p> <p>16 A Yes.</p> <p>17 Q And give their comments or what?</p> <p>18 A <b>Call to ask to see it, yes.</b></p> <p>19 Q And who would they call?</p> <p>20 A <b>The secretary of the township.</b></p> <p>21 Q Anybody else they could call?</p> <p>22 A <b>They could call any of the supervisors.</b></p> <p>23 Q How about the township solicitor, could they</p> <p>24 call him?</p> <p>25 A <b>I don't know.</b></p>	<p style="text-align: right;">36</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q I'm going to show you -- well, I was going to</p> <p>3 show you some documents. Unfortunately, when we handed Miss</p> <p>4 Wirth this document yesterday, she wrote on it, it appears.</p> <p>5 We won't make this an exhibit in this deposition so strike</p> <p>6 that. We'll just show you the original that was part of</p> <p>7 Miss Wirth's deposition.</p> <p>8 MS. MONTGOMERY: Let the record reflect that</p> <p>9 we are showing Mr. Wilson Wirth Exhibit 1.</p> <p>10 BY MS. MONTGOMERY:</p> <p>11 Q Is that the newspaper advertisement, notice of</p> <p>12 a public meeting that you're referring to?</p> <p>13 A Yes.</p> <p>14 MS. MONTGOMERY: Apparently my secretary has</p> <p>15 an emergency and I'm going to have to take a very short</p> <p>16 break. I will be right back.</p> <p>17 (Break taken at 9:28 a.m. until 9:33 a.m.)</p> <p>18 BY MS. MONTGOMERY:</p> <p>19 Q Just so I'm clear about your testimony on</p> <p>20 public hearings for the proposed ordinances, if there was</p> <p>21 going to be a public hearing would it be held at the</p> <p>22 township supervisor's meeting house, meeting room, the</p> <p>23 office there with the board of supervisors present?</p> <p>24 A No.</p> <p>25 Q Where would it be held?</p>
<p style="text-align: right;">35</p> <p>1 Q So going back to my question about a public</p> <p>2 hearing, is it your testimony that the public hearing that</p> <p>3 you hold consists of publishing it in the paper and making</p> <p>4 the proposed ordinances available if people want to see it?</p> <p>5 A <b>I haven't been involved in many. I haven't</b></p> <p>6 <b>been a supervisor that long, but the -- it was advertised in</b></p> <p>7 <b>the paper of a public meeting and the citizens were informed</b></p> <p>8 <b>of what was transpiring in the township for that -- that</b></p> <p>9 <b>meeting was a special for that.</b></p> <p>10 Q A public township supervisor's meeting?</p> <p>11 A <b>A public meeting, yes.</b></p> <p>12 Q But was the public meeting -- you mean a</p> <p>13 meeting of the board of supervisors?</p> <p>14 A <b>No, a public meeting. Everybody's -- it's a</b></p> <p>15 <b>public meeting.</b></p> <p>16 Q And who would be at that meeting?</p> <p>17 A <b>Any citizen.</b></p> <p>18 Q So you think that it was advertised in the</p> <p>19 paper -- with respect to the subdivision and land use</p> <p>20 ordinance that was passed by Jackson Township, you believe</p> <p>21 there was an advertisement for a public meeting?</p> <p>22 A Yes.</p> <p>23 Q I'm going to show you what we're going to mark</p> <p>24 as Wilson Exhibit 3.</p> <p>25 (Interruption.)</p>	<p style="text-align: right;">37</p> <p>1 A <b>At the fire hall.</b></p> <p>2 Q Oh, in the fire hall. Okay, all right. With</p> <p>3 the board of supervisors present, right?</p> <p>4 A Yes.</p> <p>5 Q And would it be at a special meeting called by</p> <p>6 the township supervisors precisely for that purpose?</p> <p>7 A <b>Can you -- can you bring that back. I --</b></p> <p>8 <b>something jogged there.</b></p> <p>9 Q Okay. It would be at a meeting called by the</p> <p>10 township supervisors, either a regular meeting or a special</p> <p>11 meeting advertised by the township supervisors where</p> <p>12 everybody would come so they could have a public meeting</p> <p>13 about it; is that correct?</p> <p>14 A Yes.</p> <p>15 Q We talked a little bit about ordinances and</p> <p>16 how you enact proposed ordinances in the township. What</p> <p>17 about a moratorium? Have you ever done any other moratorium</p> <p>18 other than the one that's at issue in this lawsuit?</p> <p>19 A No.</p> <p>20 Q So there has only been one moratorium and that</p> <p>21 was a moratorium on proposed subdivisions, correct?</p> <p>22 A Yes.</p> <p>23 Q How did that come about?</p> <p>24 A <b>It came about from information that we were --</b></p> <p>25 <b>we had the county reviewing our ordinance and from the</b></p>

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1 emergency people in our area, fire company, EMS, all these  
 2 people had concerns that the subdivision and land use  
 3 ordinance was going to cover safety issues to the fullest  
 4 extent because of the rural area. So a decision was made by  
 5 the supervisors to stop subdivisions until the ordinance was  
 6 enacted.

7 Q Subdivisions of any type, even dividing a  
 8 hundred acres into two lots?

9 A Yes.

10 Q You decided you couldn't do that for public  
 11 safety reasons?

12 A No, it was to stop -- as I stated, I believe,  
 13 to stop all subdivisions until the ordinance was in place.

14 Q Whose idea was the moratorium?

15 A The supervisors.

16 Q Which supervisor first mentioned it?

17 A I don't remember.

18 Q Were you all in agreement on it, that this was  
 19 the thing to do?

20 A Yes.

21 Q Did you consult with somebody about it?

22 A I don't believe.

23 Q Did you consult with Larry Newton about it?

24 A I don't remember.

25 Q Did you tell Larry Newton you were going to

40

1 Q Did you place the moratorium in any sort of  
 2 writing, written document?

3 A Not that I recall.

4 Q In other words, there's a written document  
 5 that reflects the ultimate subdivision plan that you all  
 6 drafted up and enacted, correct?

7 MR. SHERR: Object to the form of the  
 8 question, subdivision plan.

9 MS. MONTGOMERY: Subdivision ordinance. Well,  
 10 just strike it and I'll start again.

11 BY MS. MONTGOMERY:

12 Q There is a written document that comprises the  
 13 subdivision ordinance that the Jackson Township Board of  
 14 Supervisors enacted, correct?

15 A Yes.

16 Q Is there a similar written document that  
 17 comprises a moratorium on subdivision?

18 A No.

19 Q Now, you said you know that you informed Mr.  
 20 Newton at least after the moratorium was put in place and I  
 21 think you testified you're not sure exactly when, but now  
 22 that you've said that it was January 2000 when you enacted  
 23 -- or when you, I should say, put in place the moratorium,  
 24 does that help you recall when you told Larry Newton about  
 25 it?

39

1 put the moratorium in place?

2 A Yes, and I believe that there was a public  
 3 notice put in the newspaper.

4 Q You believe there was a public notice put in  
 5 the newspaper about the moratorium?

6 A Yes.

7 Q Who do you think put that public notice in the  
 8 newspaper?

9 A Either the solicitor or the secretary.

10 Q So if the solicitor put it in the newspaper,  
 11 he would have to have known about the moratorium, correct?

12 A Yes. I can't recall discussing it with him  
 13 till we did it.

14 Q You can't recall discussing the moratorium  
 15 with him until after you did it?

16 A Yes.

17 Q How soon after you did it did you discuss it  
 18 with him?

19 A I don't know.

20 Q Do you remember when the moratorium was put in  
 21 place?

22 A January 2000.

23 Q Did you hold any public meetings on the  
 24 moratorium?

25 A No.

41

1 A No.

2 Q Do you think you waited until the summer to  
 3 tell him about it?

4 A No. No, it wasn't that long. I -- I don't  
 5 know -- I don't know days or weeks or -- that should be --  
 6 that should be available.

7 Q When you told him?

8 A No, when it was in the newspaper.

9 Q Let me ask you this: How does Larry Newton  
 10 bill the township for his time?

11 A Hours of service.

12 Q So he sends you monthly bills?

13 A No.

14 Q Does he send you quarterly bills?

15 A No.

16 Q What does he send you?

17 A Whenever he has some time. I guess in theory  
 18 he's a full-time solicitor but his services aren't used  
 19 every month or something like that. It's just on an as --  
 20 as-needed basis.

21 Q Is he on a salary or he's on an hourly?

22 A Hourly.

23 Q So if he performs work for you, then he writes  
 24 it down somehow, describes what the work is and sends it to  
 25 you in an invoice?



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1 A He sends it to the township secretary and it's  
 2 shown to us at the meeting, yes.  
 3 Q So she shows you that?  
 4 A Yes.  
 5 Q Do you recall seeing some time on a township  
 6 -- on your township solicitor's bill for discussing the  
 7 moratorium or reviewing the moratorium or anything like  
 8 that?  
 9 A No.  
 10 Q No?  
 11 A (Witness shook his head negatively.)  
 12 Q You don't recall it?  
 13 A I don't recall it.  
 14 Q Well, you said you don't think you waited  
 15 until the summer, right? Do you think that you told him  
 16 about the moratorium within a few weeks?  
 17 A I don't know.  
 18 Q Well, you don't have to know the exact date.  
 19 I mean, that's not what we're looking for at all. We just  
 20 need an approximate time frame. Do you think it was still  
 21 winter when you told him about it?  
 22 A Yes.  
 23 Q What makes you think that?  
 24 A I -- I wish I could remember when the item was  
 25 in the newspaper. I just ...

43

1 Q You think the item went into the newspaper  
 2 after the moratorium was in place?  
 3 A Yes.  
 4 Q I see. What makes you think the item went in  
 5 the newspaper after the moratorium was in place?  
 6 A I don't know.  
 7 Q Did you all decide, well, now we have the  
 8 moratorium, we better post it in the newspaper so everybody  
 9 knows about it?  
 10 A Yes.  
 11 Q So who did you discuss that with?  
 12 A The solicitor.  
 13 Q Did he tell you that now that you have a  
 14 moratorium you better put it in the paper so the public  
 15 knows about it?  
 16 A No.  
 17 Q But you discussed it with him, right? What  
 18 was the nature of the discussion?  
 19 A He was informed that the Jackson Township  
 20 supervisors enacted by unanimous vote at the meeting and set  
 21 into motion the moratorium for subdivisions and land use in  
 22 Jackson Township until the ordinance was adopted.  
 23 Q So whose idea was it to put it in the paper?  
 24 A I don't know.  
 25 Q You don't know?

44

1 A No.  
 2 Q That's okay. It's okay if you don't  
 3 remember. I'm just asking you. Did you discuss it with Ann  
 4 Wirth?  
 5 A Discuss --  
 6 Q Putting the notice of the moratorium in the  
 7 paper with Ann Wirth after the moratorium was put in place.  
 8 A No.  
 9 Q You didn't discuss it with her?  
 10 A What would the need be, she's right at the  
 11 meeting taking down the information.  
 12 Q I'm just trying to get to the point of who  
 13 decided to put the notice in the paper. At the January 2000  
 14 meeting when you put the moratorium in place, did you go  
 15 through a process of making a motion? Did somebody make a  
 16 motion to put a moratorium in place and was it approved and  
 17 all that or did you just all decide to stick it in the  
 18 minutes that there was a moratorium in place?  
 19 A I don't remember.  
 20 Q If you did that, if you made a motion, if you  
 21 said we now move -- somebody moves that there's a moratorium  
 22 to be put in place on subdivisions and somebody else seconds  
 23 it and somebody else says, you know, all in favor, would  
 24 that be in the minutes?  
 25 A Yes.

45

1 Q It should be in the minutes if you did it?  
 2 A Yes.  
 3 Q Let's talk about the first time that you met  
 4 David Corneal. Do you recall it?  
 5 A Yes.  
 6 Q When was that?  
 7 A I don't remember the day.  
 8 Q What was the occasion?  
 9 A I believe he pulled into my business  
 10 establishment.  
 11 Q For what purpose?  
 12 A If I remember correctly, it was to do some  
 13 work for him.  
 14 Q What kind of work?  
 15 A Clean up a site.  
 16 Q Clean up a site in what -- for what, do you  
 17 know?  
 18 MR. SHERR: Objection. Did you say clean off  
 19 the site?  
 20 THE WITNESS: Clean up the site.  
 21 MR. SHERR: Clean up?  
 22 THE WITNESS: Up. Yes, up.  
 23 BY MS. MONTGOMERY:  
 24 Q Clean up a site for what?  
 25 A It was some litter that deposited over the

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1 years and he -- David wanted it cleaned up.  
 2 Q So it was some trash on his property you mean?  
 3 A Yes.  
 4 Q And so did you perform that work for him?  
 5 A No.  
 6 Q Why is that?  
 7 A I just never got to it. It was a --  
 8 Q It was a busy time?  
 9 A Well, it was weather related and I didn't make  
 10 it.  
 11 Q So then did you have occasion to meet him  
 12 another time after that?  
 13 A Yes, and I -- I can't recall the dates, but he  
 14 needed a backhoe.  
 15 Q For what?  
 16 A Soil probes.  
 17 Q For his soil probes. So did he come again to  
 18 your business establishment?  
 19 A I think so.  
 20 Q Well, in any event, you agreed to go out and  
 21 do excavation work in connection with the soil probes?  
 22 A Yes.  
 23 Q When you agreed to do that, did Mr. Corneal  
 24 explain to you what he intended to do with his property?  
 25 A I don't recall.

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1 Q Did he tell you that he wanted a number of  
 2 lots on his property?  
 3 A I remember the part that he wanted various  
 4 probes dug, but I -- I don't recall of him saying exactly  
 5 how many lots he was looking for or anything like that.  
 6 Q Did you understand he was looking for at least  
 7 another lot to build a building for himself, a dwelling for  
 8 himself?  
 9 A Yes.  
 10 Q Did you understand that he was also looking  
 11 for at least another lot perhaps for his -- for family  
 12 members?  
 13 A No.  
 14 Q So did you understand he wanted to subdivide  
 15 his property at least into two lots?  
 16 A I under -- I was under -- under the  
 17 understanding that he was going to split it up into lots,  
 18 yeah.  
 19 Q You were under that when you went out to do  
 20 that work?  
 21 A Yes.  
 22 Q Is it your understanding that Mr. Corneal also  
 23 knew at that point that you were also a township supervisor?  
 24 A I don't -- I don't know that.  
 25 Q So you went out and you performed the

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1 excavation work for Mr. Corneal?  
 2 A Yes.  
 3 Q What did that involve?  
 4 A Driving a backhoe all over the property and  
 5 the sewage officer -- and I can't even remember if Mr.  
 6 Corneal was there -- deciding we're going to try this soil,  
 7 this site here and move on, that type of thing.  
 8 Q Did you make reference to a plot plan at that  
 9 point or a plan or a survey of any type?  
 10 A I don't recall.  
 11 Q Do you recall whether there was a map, a  
 12 survey map or anything like that that accompanied you in  
 13 your work that day?  
 14 A No.  
 15 Q Did you have a written contract with him for  
 16 the services?  
 17 A No.  
 18 Q You just agreed on a price or was it on an  
 19 hourly or what?  
 20 A Hourly rate.  
 21 Q Did you actually do the work yourself?  
 22 A No.  
 23 Q Who did it?  
 24 A I believe Mike Foster was on the backhoe.  
 25 Q Mike Foster?

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1 A Yes.  
 2 Q Is Mike Foster your nephew?  
 3 A No.  
 4 Q Do you have a nephew who works for you?  
 5 A Yes.  
 6 Q What's his name?  
 7 A Matt Armstrong.  
 8 Q Matt Armstrong. Do you think maybe he was at  
 9 that project?  
 10 A I'm sure that Matt was there at one time or  
 11 another. I just can't recall -- I have more than one hoe  
 12 operator and ...  
 13 Q Do you know how Mr. Corneal came to hire you  
 14 for this project? Did somebody recommend him, do you know?  
 15 A I don't know.  
 16 Q Do you know whether you'd ever seen Mr.  
 17 Corneal at a township meeting prior to the time that Eagle  
 18 Excavation did the work?  
 19 A I don't recall.  
 20 Q But you said that you had met Mr. Corneal  
 21 prior to the time you did the excavation work in connection  
 22 with his request that you do other work on his property,  
 23 correct?  
 24 A Yes.  
 25 Q Do you recall how long you talked to him at

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1 that meeting?  
 2 A It was sort of a walk around chatty type and  
 3 that could be the -- the time that I said that I was a  
 4 township supervisor. I just -- it's been a while.  
 5 Q Did you ever mention -- when Mr. Corneal first  
 6 contacted you to do the work on the property either removing  
 7 his debris or digging the test pits, did you mention a  
 8 proposed moratorium to him at that time?  
 9 A I advised Mr. Corneal at one of the times we  
 10 were there working on the sewage that if he was going to  
 11 subdivide his property he should do it this year because  
 12 there's -- the township is working on ordinances for 2000.  
 13 Q So that would indicate that you did understand  
 14 he was trying to subdivide his property --  
 15 A Well --  
 16 Q -- when you were doing that work for him,  
 17 correct?  
 18 A These things sort of evolved in the days that  
 19 we were there working. I can't ...  
 20 Q Did you come out to the property at some point  
 21 when somebody else was running the backhoe in connection  
 22 with digging the test pits?  
 23 A I was in and out -- that's what I do. I -- I  
 24 have various jobs going and I'm here, there and everywhere.  
 25 Q So you just go out to oversee it and that sort

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1 of thing?  
 2 A See if everything is okay.  
 3 Q So you advised him that he ought to subdivide  
 4 his property at the point that you were doing his excavation  
 5 because you were going to put a subdivision ordinance in the  
 6 next year, right?  
 7 A Yes.  
 8 Q Do you recall what Mr. Corneal said back to  
 9 you about that?  
 10 A No.  
 11 Q At the time that you were out there working on  
 12 his property, or that Eagle Excavation was out there working  
 13 on his property was the township considering a moratorium at  
 14 that point?  
 15 A No.  
 16 Q After you dug the test pits, did the Corneals  
 17 ask you to do any other work on their property in your  
 18 capacity as Eagle Excavation?  
 19 A Yes.  
 20 Q What was that?  
 21 A To shale a road.  
 22 Q And what road was that?  
 23 A The old logging road that went down to -- and  
 24 crossed the power line and actually got to where it crossed  
 25 the stream, Laurel Run.

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1 Q So did you shale that road?  
 2 A No.  
 3 Q Why not?  
 4 A I came back to the office this one day and  
 5 there was a slip of paper there from David that McClintic  
 6 had said that it will take X amount of shale -- loads of  
 7 shale to do this road and I just -- I just didn't get to it.  
 8 Q So you intended to do it but you just didn't  
 9 get to it?  
 10 A Well, the length of time that had transpired  
 11 there, the next thing I knew somebody else was doing it.  
 12 Q So Mr. --  
 13 A It's not that I -- I had my shale pits right  
 14 there across the road from his house.  
 15 Q So you intended to do it but he got somebody  
 16 else to do it?  
 17 A I intended to do it, but I -- I was busy.  
 18 Q Okay. Did you have any problem with where --  
 19 you know, any concerns at all about where he was putting  
 20 that road that he wanted you to shale -- was that road  
 21 already there?  
 22 A It was an existing log road.  
 23 Q So did you have any problem with shaling that  
 24 road? Did you think there was anything wrong with that?  
 25 A No.

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1 Q Did Mr. Corneal ask you then to do any other  
 2 work on his property?  
 3 A No.  
 4 Q So you dug the test pits. Did you help at all  
 5 in any way with the perc tests?  
 6 A Yes.  
 7 Q What did you do there?  
 8 A We dug the holes and supplied the water for  
 9 the sewage officer.  
 10 Q And that was a different day than actually  
 11 digging the test pits, right?  
 12 A Yes.  
 13 Q So you did actually perform some other work  
 14 for him?  
 15 A Yes.  
 16 Q That's all right. Did you do the perc tests  
 17 after he asked you to shale the road or before?  
 18 A Before.  
 19 Q So asking you to shale the road, was that the  
 20 last thing he asked you to do for him on his property?  
 21 A Yes.  
 22 Q Did you know why Mr. Corneal was asking you to  
 23 help with the perc tests on the property?  
 24 A No.  
 25 Q You didn't know what he was looking for there?



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<p style="text-align: right;">54</p> <p>1 A Well, that was -- that was to get -- for the</p> <p>2 sewage officer to set the perc rates, is all --</p> <p>3 Q So he was looking for on-lot septic system?</p> <p>4 A Yes.</p> <p>5 Q On a variety of lots, right?</p> <p>6 A Yeah.</p> <p>7 Q Did you understand that at the time?</p> <p>8 A Yes, yes.</p> <p>9 Q Did you actually perform the perc test</p> <p>10 yourself?</p> <p>11 A No.</p> <p>12 Q Who did it?</p> <p>13 A My crew.</p> <p>14 Q Do you recall who from your crew went out and</p> <p>15 did it?</p> <p>16 A No.</p> <p>17 MS. MONTGOMERY: Well, let me just consult for</p> <p>18 one second.</p> <p>19 (Break taken from 10:01 a.m. until 10:02 a.m.)</p> <p>20 BY MS. MONTGOMERY:</p> <p>21 Q Did Mr. Corneal pay you for doing the work on</p> <p>22 his property, pay Eagle Excavation for doing that work?</p> <p>23 A Yes.</p> <p>24 Q He paid all his bills?</p> <p>25 A Yes.</p>	<p style="text-align: right;">56</p> <p>1 piece of land that Mr. Corneal owns there?</p> <p>2 A Yes.</p> <p>3 Q So there's approximately 95 acres, is that</p> <p>4 what it is? Is that what your grandfather owned?</p> <p>5 A No.</p> <p>6 Q What did he own?</p> <p>7 A He owned on the other side of the road, too,</p> <p>8 clear across Route 26, which over the -- through the fifties</p> <p>9 and stuff it was chopped up.</p> <p>10 Q He sold it off through the fifties?</p> <p>11 A Mostly to his children, yeah.</p> <p>12 Q Do you live near Mr. Corneal's property?</p> <p>13 A No.</p> <p>14 Q How far from it do you live?</p> <p>15 A Approximately three miles.</p> <p>16 Q When did your grandfather sell the farmhouse?</p> <p>17 A Unfortunately he didn't. I believe it was an</p> <p>18 estate sale.</p> <p>19 Q Oh, he passed away?</p> <p>20 A Yes.</p> <p>21 Q I'm sorry. Did you -- I didn't mean to ask</p> <p>22 you the question like that, I apologize. Did he sell --</p> <p>23 well, when the estate sale occurred, was it for the entire</p> <p>24 95-acre piece?</p> <p>25 A No.</p>
<p style="text-align: right;">55</p> <p>1 Q Do you recall how much the work was --</p> <p>2 A No.</p> <p>3 Q How much the work cost?</p> <p>4 A No.</p> <p>5 Q Do you recall when you finished up the work on</p> <p>6 the property with the perc tests?</p> <p>7 A June, July, August, late -- it was late</p> <p>8 summer. It was dry. July, August, in that area.</p> <p>9 Q Was it your understanding that the sewage</p> <p>10 enforcement officer had found a number of good sites for</p> <p>11 on-lot sewage systems on that property?</p> <p>12 A Yes.</p> <p>13 Q Now, the property itself, the Corneal</p> <p>14 property, are you familiar with that property from before</p> <p>15 you knew Mr. Corneal?</p> <p>16 A Yes.</p> <p>17 Q And how are you familiar with that property?</p> <p>18 A That was my grandfather's farm so I ran around</p> <p>19 there a lot as a tyke.</p> <p>20 Q Did you ever live there yourself?</p> <p>21 A No.</p> <p>22 Q Your grandfather owned the farm -- the</p> <p>23 farmhouse that exists on the property now --</p> <p>24 A Yes.</p> <p>25 Q -- is that correct? Did he also own the whole</p>	<p style="text-align: right;">57</p> <p>1 Q What was it for?</p> <p>2 A It was -- and I don't know the acreage.</p> <p>3 Across the township road from the farmhouse and barn, there</p> <p>4 was acreage there that went with it.</p> <p>5 Q So there was still --</p> <p>6 A It was a bigger plot, yeah.</p> <p>7 Q And who bought the property at that point?</p> <p>8 A Taylor Wilson.</p> <p>9 Q Is that a relative of yours?</p> <p>10 A Yes.</p> <p>11 Q How is he related or she related to you?</p> <p>12 A He's deceased too. He was a second cousin.</p> <p>13 Q I see. So the property -- when did the estate</p> <p>14 sale occur?</p> <p>15 A I believe I was a senior in high school, '59,</p> <p>16 '60, along there somewhere.</p> <p>17 Q And then your second cousin bought the</p> <p>18 property and how long did he own it?</p> <p>19 A Up until -- I don't know when he sold that</p> <p>20 half off. I don't know. He split the property.</p> <p>21 Q He split the 95 acres that Mr. Corneal owns?</p> <p>22 A And kept everything on the west side of Miller</p> <p>23 Road -- I mean Sawmill Road.</p> <p>24 Q Do you have any interest in purchasing the old</p> <p>25 Wilson homestead there?</p>

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1 A I -- I think at -- in our -- no. I was  
2 wandering there. I was thinking of -- we were walking  
3 around and David and McClintic -- I don't remember who was  
4 around, but I was sort of reminiscing about my grandkids, it  
5 would be nice to have a place away from the highway that the  
6 kids could go, but, geez, I couldn't afford to buy the  
7 property.  
8 Q Are you aware of whether or not your nephew  
9 approached Mr. Corneal about buying the property?  
10 A I am aware.  
11 Q And what happened?  
12 A He came back to me all excited and wanted me  
13 to lend him money and I didn't have the money to lend him.  
14 Q He wanted to buy the old homestead?  
15 A Yeah.  
16 Q Did you and he discuss whether or not you  
17 could buy it together or anything like that?  
18 A No.  
19 Q Did you ever discuss with him any way that you  
20 could keep the property in the family?  
21 A No. What I might say is I advised him to go  
22 to Kish Bank and see if he could get a mortgage set up,  
23 that's what I advised him.  
24 Q Well, what your nephew was interested in  
25 buying, was that the 26-acre piece with the farmhouse on it?

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1 A Yes.  
2 Q How did you become aware that the Corneals  
3 were interested in selling that 26-acre piece off?  
4 A I don't recall.  
5 Q Did you ever try to help your nephew or  
6 anybody else find the money to acquire that 26-acre piece  
7 since Mr. Corneal has owned it?  
8 A No.  
9 Q Did you ever request that anybody assist your  
10 nephew in purchasing it?  
11 A No.  
12 Q Now, at what point do you recall your nephew  
13 coming to you all excited and talking about buying the  
14 property?  
15 A I don't remember.  
16 Q Was it around the time you were doing the  
17 excavating work?  
18 A I don't believe.  
19 Q You think it was later than that?  
20 A Yes.  
21 Q Do you think it was -- was it before the  
22 winter, does that help?  
23 A I don't know.  
24 Q Well, correct me if I'm wrong, the excavation  
25 work was done in 1999; isn't that correct?

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1 A Yes.  
2 Q Do you think it was before January 2000 when  
3 you put the moratorium in place?  
4 A I -- I really don't know.  
5 Q Do you recall what your nephew was wearing?  
6 Was he wearing a coat when he came to talk to you?  
7 A I -- I can remember him come flying -- I was  
8 at the shop. He come flying in all excited that there was a  
9 -- he had maybe a chance to get the property, but I -- I  
10 can't recall when.  
11 Q Let me ask you this: We talked a moment ago  
12 or so about Mr. Newton's bills. You said you review the  
13 bills at the township meetings?  
14 A Did I say that?  
15 Q I believe you did.  
16 A I think I said that the -- the bills were  
17 brought to the township meeting to be looked at by the  
18 supervisors and -- which authorize payment, yes.  
19 Q Do you know where the bills are kept then?  
20 A I assume the township office.  
21 Q So they're kept by Ms. Wirth?  
22 A Yes.  
23 Q Does she have a file, do you know? Does she  
24 keep a collapsible folder or something like that or --  
25 A What I know is the supervisors paid for two, I

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1 believe they're four-drawer, filing cabinets because  
2 whenever we go into all the flood issues we had no storage  
3 room for records, to keep all the flood records and things  
4 and -- we had no place to keep those.  
5 Q I see.  
6 A Which was -- geez, I forget. How could I  
7 forget that? The flood when we lost the bridges, five years  
8 ago.  
9 Q Ninety-six?  
10 A Yes.  
11 Q The big flood that came through here as  
12 well --  
13 A Yes, yes.  
14 Q -- in '96, the winter, February?  
15 A Exactly. I had been a supervisor one month  
16 and disaster hit, yes. What a learning experience.  
17 Q That's right. Now, at the time you were doing  
18 the excavation work for Mr. Corneal, did you discuss Mr.  
19 Corneal's intent to subdivide with the other township  
20 supervisors?  
21 A I don't recall.  
22 Q Did you discuss it with Miss Wirth?  
23 A I don't believe.  
24 Q Even in passing, even just casually?  
25 A It's possible that it -- I said something

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1 about it because as soon as people see me coming with a  
 2 backhoe -- it's a small community and -- what are you doing  
 3 over there. And it's possible that I said in passing to  
 4 somebody that, well, I think Mr. Corneal is going to  
 5 subdivide his property. I -- I think -- if that happened,  
 6 it happened that way, just as a casual thing. I don't -- I  
 7 don't really recall.  
 8 Q Mr. Wilson, you subdivided some property not  
 9 too long ago; isn't that correct?  
 10 A Yeah, I had approximately 12 acres that was  
 11 subdivided before I became a supervisor. My -- I have two  
 12 sons and for sons to get mortgages to build homes for their  
 13 families they have to own land so I had the property  
 14 subdivided.  
 15 Q So you divided your 12 acres into how many  
 16 lots?  
 17 A Three.  
 18 Q Now, I think you testified that that was  
 19 subdivided before you became a supervisor, correct?  
 20 A Yes.  
 21 Q But you also said you became a supervisor in  
 22 1996, correct?  
 23 A Yes.  
 24 Q Well, I'm going to show you a document that we  
 25 will mark as Wilson 3 and I'll just ask you to look it over.

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1 County Planning Commission has to review every  
 2 subdivision --  
 3 A Right.  
 4 Q -- proposed subdivision within Jackson  
 5 Township before the supervisors will approve it; is that  
 6 correct?  
 7 A Yes.  
 8 Q Well, let's look back further on this  
 9 document. Two Corneal entries are on this document. Do you  
 10 see them on the second page, one is --  
 11 A Yes.  
 12 Q -- dated February 10, 2000 and one is dated  
 13 April 11, 2000, right?  
 14 A Yes.  
 15 Q Are those the dates of the submission of the  
 16 subdivision plan to the township?  
 17 A I don't know.  
 18 Q Is this the date they were reviewed by the  
 19 county, do you know?  
 20 A I don't know.  
 21 MS. MONTGOMERY: Just let the record reflect  
 22 that there was some discussion going on between Mr. Wilson  
 23 and his counsel.  
 24 MR. SHERR: And for the record, I was showing  
 25 Mr. Wilson my doodles and my pad.

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1 (Subdivisions reviewed by HCPC produced and  
 2 marked as Wilson Exhibit No. 3.)  
 3 BY MS. MONTGOMERY:  
 4 Q Do you see about two-thirds of the way down  
 5 this document -- which is a list of subdivisions reviewed by  
 6 the Huntingdon County Planning Commission, correct?  
 7 A Yes.  
 8 Q Do you see your name, W. Thomas Wilson there?  
 9 A Yes.  
 10 Q And the date is September 3rd, 1997?  
 11 A Yes.  
 12 Q So maybe you were just mistaken about when you  
 13 subdivided?  
 14 A A mistake?  
 15 Q Well, I think you said you subdivided it  
 16 prior to --  
 17 A To becoming a supervisor.  
 18 Q Right. But this is a list of subdivisions  
 19 reviewed by the Huntingdon County Planning Commission which  
 20 has you dated -- the date is September 3rd, 1997. Is it  
 21 possible that you began the process of subdivision prior to  
 22 becoming a supervisor and finished it afterwards?  
 23 A Oh, no, that was all complete before I became  
 24 a supervisor.  
 25 Q Now, it's my understanding that the Huntingdon

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1 MS. MONTGOMERY: For the record, he was  
 2 showing Mr. Wilson his yellow legal pad.  
 3 MR. SHERR: I was showing him the doodles on  
 4 my legal pad, that's correct.  
 5 BY MS. MONTGOMERY:  
 6 Q So when you say that the subdivision was  
 7 completed before you became a township supervisor, you mean  
 8 that you'd already recorded the deeds and all that?  
 9 A I don't know when the -- my son's recorded  
 10 their deeds.  
 11 Q But you'd already conveyed the deeds to them,  
 12 that's what you mean by the subdivision being completed?  
 13 A Well, I know it was before I was a supervisor  
 14 because I had to deal with Koch, Wilson and Weiler as  
 15 supervisors when I submitted my subdivision plan.  
 16 Q So you submitted it to them and they approved  
 17 it?  
 18 A No. Well, they approved it, but it -- I  
 19 didn't -- it didn't happen right away. DEP and county,  
 20 every --  
 21 Q So did your sons begin to build their homes  
 22 before you became a township supervisor?  
 23 A Yes.  
 24 Q They did. Were they completed before you  
 25 became a township supervisor?

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<p style="text-align: right;">66</p> <p>1 A No.</p> <p>2 Q No?</p> <p>3 A <b>They're still not done.</b></p> <p>4 Q Were they living -- I understand.</p> <p>5 A <b>Yes.</b></p> <p>6 Q Were they living in them before you became a</p> <p>7 township supervisor?</p> <p>8 A <b>Yes.</b></p> <p>9 Q Both of them?</p> <p>10 A <b>Yes.</b></p> <p>11 Q Now, you were talking earlier about the fact</p> <p>12 that it's a small community and people saw you with the</p> <p>13 backhoe and they'd say, you know, what are you doing up</p> <p>14 there. So that's what makes you think you probably told</p> <p>15 people what you were doing up on the Corneal property,</p> <p>16 right?</p> <p>17 A <b>I guess that, yes. I --</b></p> <p>18 Q Is it your belief that people generally knew</p> <p>19 that Mr. Corneal was looking to subdivide his property up</p> <p>20 there around that 1999 time frame?</p> <p>21 A <b>I don't think so.</b></p> <p>22 Q You don't think so. Do you think the township</p> <p>23 supervisors generally knew it?</p> <p>24 A <b>I don't know that.</b></p> <p>25 Q Do you think the sewage enforcement officer</p>	<p style="text-align: right;">68</p> <p>1 A <b>Yes.</b></p> <p>2 Q Did he come out and look at the property that</p> <p>3 you subdivided?</p> <p>4 A <b>Yes.</b></p> <p>5 Q Did he perform the perc tests?</p> <p>6 A <b>Probes and percs.</b></p> <p>7 Q So Eagle Excavating did the probes and percs</p> <p>8 and all that as well?</p> <p>9 A <b>I don't remember.</b></p> <p>10 Q You don't remember the process?</p> <p>11 A <b>No. The only thing that comes to mind is Judy</b></p> <p>12 <b>Passmore did the designs for the septic systems.</b></p> <p>13 Q Did she do that after you got an approved</p> <p>14 sewage module?</p> <p>15 A <b>I don't remember.</b></p> <p>16 Q Did she do it after you got approved test</p> <p>17 sites?</p> <p>18 A <b>I'm sure because she had to have the work-up</b></p> <p>19 <b>sheets to do that.</b></p> <p>20 Q She had to have approved test sites in order</p> <p>21 to make the design, correct?</p> <p>22 A <b>Yes.</b></p> <p>23 Q Do you recall talking with Larry Newton at all</p> <p>24 about Mr. Corneal's intent to subdivide the property around</p> <p>25 the time that you were performing the excavation work out</p>
<p style="text-align: right;">67</p> <p>1 knew it?</p> <p>2 A <b>Well, he did the sewage work. I'm assuming,</b></p> <p>3 <b>yeah. I --</b></p> <p>4 Q What about Ann Wirth, do you think she knew</p> <p>5 it?</p> <p>6 A <b>I don't know.</b></p> <p>7 Q During that period of time that you were doing</p> <p>8 the test pits up there and the perc tests, do you recall</p> <p>9 anybody expressing any concern about Mr. Corneal's intent to</p> <p>10 subdivide?</p> <p>11 A <b>No.</b></p> <p>12 Q Do you recall anybody saying anything about --</p> <p>13 anything about it, like, you know, oh, there's another</p> <p>14 property owner here, he's going to break his property up</p> <p>15 into some lots or anything like that?</p> <p>16 A <b>No.</b></p> <p>17 Q Let's go back to when you subdivided your</p> <p>18 property and you submitted a plan, right, to the township --</p> <p>19 A <b>Yes.</b></p> <p>20 Q -- supervisors? Were there sewer modules</p> <p>21 attached to your plan?</p> <p>22 A <b>I don't remember.</b></p> <p>23 Q Do you recall whether Barry Parks came out and</p> <p>24 did -- was Barry Parks the sewage enforcement officer at the</p> <p>25 time?</p>	<p style="text-align: right;">69</p> <p>1 there?</p> <p>2 A <b>No.</b></p> <p>3 Q You don't think you talked to him about it?</p> <p>4 A <b>No.</b></p> <p>5 Q Does your nephew work for anybody besides you?</p> <p>6 A <b>I believe so.</b></p> <p>7 Q Who else does he work for?</p> <p>8 A <b>Mr. Powell has a dairy farm on Powell Road. I</b></p> <p>9 <b>-- he spends a lot of time there so I assume he's a</b></p> <p>10 <b>part-time helper. I -- I'm speculating. I shouldn't do</b></p> <p>11 <b>that.</b></p> <p>12 Q That's okay. Do you know how much money your</p> <p>13 nephew needed to come up with to buy the Corneal -- the</p> <p>14 26-acre piece from the Corneals with the farmhouse on it?</p> <p>15 A <b>He told me but I don't remember.</b></p> <p>16 Q Do you know if he discussed it with anybody</p> <p>17 else in your family?</p> <p>18 A <b>No.</b></p> <p>19 Q Do you know John Hewett?</p> <p>20 A <b>Yes.</b></p> <p>21 Q How do you know John Hewett?</p> <p>22 A <b>John Hewett had me do some work at his</b></p> <p>23 <b>property.</b></p> <p>24 Q Where is his property?</p> <p>25 A <b>Property in Mooresville.</b></p>

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1 Q Mooresville, is that in Jackson Township?  
 2 A No.  
 3 Q It's in --  
 4 A **West, I believe.**  
 5 Q Is it in Huntingdon County?  
 6 A **Yes.**  
 7 Q Is he a native of that area?  
 8 A **I don't know.**  
 9 Q So he had you perform his work -- some work at  
 10 his property there. When was that?  
 11 A **A couple years.**  
 12 Q Did you have occasion to discuss with John  
 13 Hewett the fact that Mr. Corneal was looking to sell off a  
 14 piece of his property with the farmhouse on it?  
 15 A **In working at his property down there digging**  
 16 **out -- he raises flowers. And digging those things out, I**  
 17 **may have discussed with him -- because he was asking about**  
 18 **where can he find a place where he can grow flowers, open**  
 19 **fields, you know, and I may -- I may have said something**  
 20 **that there's a possibility that there's going to be some**  
 21 **property for sale in Jackson Township. I --**  
 22 Q Do you think you had that conversation with  
 23 him?  
 24 A **It could have happened. It could have**  
 25 **happened.**

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1 Q When would that have been?  
 2 A **I don't remember.**  
 3 Q Was it around the time you were doing the work  
 4 for Mr. Corneal at his property, the excavation work?  
 5 A **I believe before that.**  
 6 Q So you knew that Mr. Corneal was looking to  
 7 sell off that 26-acre piece before you did the excavation  
 8 work?  
 9 A **No, I -- other than my nephew checking that, I**  
 10 **don't know how he became aware that he had that up for**  
 11 **sale. I don't remember that, but that sort of led me onto**  
 12 **the idea, I guess, that maybe Hewett would be interested in**  
 13 **raising his flowers there in those open fields.**  
 14 Q So in any event, at some point John Hewett  
 15 became interested in Mr. Corneal's 26-acre piece and  
 16 farmhouse, correct?  
 17 A **Yeah, I -- I don't recall if I told him to**  
 18 **give David a call. I just don't -- I don't remember.**  
 19 Q Do you recall when you first became aware that  
 20 John Hewett did in fact enter into an agreement with Mr.  
 21 Corneal to purchase that piece of property?  
 22 A **I don't -- I don't recall when.**  
 23 Q Do you recall whether it was before or after  
 24 your nephew expressed his interest in the property?  
 25 A **After.**

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1 Q So then after your nephew expressed his  
 2 interest, then the Hewetts -- then you found out the Hewetts  
 3 had entered into an agreement to purchase it?  
 4 A **Well, I didn't -- I didn't know they -- that**  
 5 **they had gone into an agreement to purchase that.**  
 6 Q When did you find out that they had gone into  
 7 an agreement to purchase it?  
 8 A **When they started coming to supervisor's**  
 9 **meetings.**  
 10 Q When they started coming to supervisor's  
 11 meetings?  
 12 A **Yes.**  
 13 Q Do you know when that was?  
 14 A **No, I don't.**  
 15 Q Was it before or after you put the moratorium  
 16 in place in January?  
 17 A **I don't remember.**  
 18 Q So you testified that the Hewetts started to  
 19 come to township meetings and you think that that was after  
 20 they became interested in buying that piece of property from  
 21 Mr. Corneal, correct?  
 22 A **I believe that.**  
 23 Q Did you have occasion to talk with the Hewetts  
 24 about their interest in the property then around the time  
 25 they were coming to the township meetings?

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1 A **No.**  
 2 Q Even at the township meetings you didn't talk  
 3 to them?  
 4 A **I may have talked to John and -- I forget her**  
 5 **name. They introduced themselves with the pretense that**  
 6 **they hoped to be citizens of Jackson Township and wanted to**  
 7 **know the local officials and things like that, but I -- I**  
 8 **can't -- I can't say right now that I knew at that time that**  
 9 **he had some kind of a work-up with Mr. Corneal. I -- I**  
 10 **don't know that.**  
 11 Q Well, was it your understanding when they  
 12 introduced themselves as people who were probably going to  
 13 be citizens of Jackson Township that that was going to be in  
 14 connection with the Corneal property?  
 15 A **I assumed that.**  
 16 Q Do you recall Mr. Hewett speaking at the  
 17 township meetings other than introducing himself?  
 18 A **No.**  
 19 Q Not ever?  
 20 A **Never.**  
 21 Q Did he ever speak to you outside the township  
 22 meeting about anything in connection with his intent to  
 23 purchase the Corneal property?  
 24 A **I don't remember that.**  
 25 Q What about his -- I guess girlfriend or



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1 partner, whatever you would call her, do you recall speaking  
 2 with her at all?  
 3 **A Just shook her hand at a meeting. I -- if**  
 4 **she'd walk in here, I wouldn't even know her.**  
 5 **Q Do you know how many meetings they came to?**  
 6 **A No.**  
 7 **Q Did you ever discuss the moratorium with the**  
 8 **Hewetts? We call them the Hewetts, even though it's been**  
 9 **represented to us that they are not married, but they are a**  
 10 **couple, I think everybody agrees.**  
 11 **A No.**  
 12 **Q You never discussed the moratorium with them?**  
 13 **A No.**  
 14 **Q Did you ever discuss the proposed subdivision**  
 15 **ordinance with them before it was enacted?**  
 16 **A No.**  
 17 **Q What about the completed subdivision ordinance**  
 18 **after it was enacted?**  
 19 **A They were at the meetings when those things**  
 20 **were discussed, which was when the moratorium was on and the**  
 21 **subdivision was being -- through its final stages in early**  
 22 **2000.**  
 23 **Q Do you recall when the subdivision ordinance**  
 24 **was enacted?**  
 25 **A 10th of July, 2000.**

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1 **Q So the moratorium was put in place January**  
 2 **4th, 2000 and what's that, seven months later the proposed**  
 3 **ordinance -- the ordinance was actually enacted?**  
 4 **A Yes.**  
 5 **Q And they were at meetings, are you saying,**  
 6 **between January 4th and the date that the proposed ordinance**  
 7 **was actually enacted?**  
 8 **A Yes.**  
 9 **Q Did they come to any meetings after that?**  
 10 **A I don't believe.**  
 11 **Q Did they ever make a phone call to you and**  
 12 **say, hey, what's going on with the proposed subdivision**  
 13 **ordinance?**  
 14 **A No.**  
 15 **Q Did they ever make -- to your knowledge did**  
 16 **they ever call any of the other township supervisors to**  
 17 **express any concern about the moratorium?**  
 18 **A I don't know.**  
 19 **Q Did anybody call them and tell them, hey,**  
 20 **there is going to be a moratorium in place so don't count on**  
 21 **purchasing Mr. Corneal's property?**  
 22 **A No.**  
 23 **Q Do you know whether Ann Wirth called them and**  
 24 **talked to them?**  
 25 **A I don't know that.**

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1 **MS. MALADY: Could we take a break?**  
 2 **MS. MONTGOMERY: Yes.**  
 3 **(Break taken at 10:35 a.m. until 10:45 a.m.)**  
 4 **BY MS. MONTGOMERY:**  
 5 **Q Do you recall, Mr. Wilson, whether or not the**  
 6 **Hewetts complained directly to you about the effect that the**  
 7 **moratorium was having on their ability to purchase the**  
 8 **Corneal property?**  
 9 **A No.**  
 10 **Q Do you recall offering them a farmhouse that**  
 11 **you had that they could perhaps rent, a farmhouse that you**  
 12 **had?**  
 13 **A That discussion was at a meeting, when Mr.**  
 14 **Corneal at the township meeting said that there was a**  
 15 **problem there and he needed -- those people needed to get in**  
 16 **there and I suggested why don't you rent them the farmhouse.**  
 17 **Q Oh, I see. You mean why doesn't --**  
 18 **A He rent his farmhouse.**  
 19 **Q -- Mr. Corneal rent the farmhouse to them?**  
 20 **A Yes.**  
 21 **Q Until what?**  
 22 **A Until the ordinances and stuff were in place**  
 23 **and his subdivision was approved.**  
 24 **Q Do you recall what meeting that was?**  
 25 **A No.**

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1 **Q Was that last year, was it like in -- after**  
 2 **the moratorium went in place obviously so it was after**  
 3 **January 2000?**  
 4 **A It was sometime in that -- that span,**  
 5 **moratorium until enactment of the ordinance.**  
 6 **Q Well, that just goes to my earlier question**  
 7 **which was whether or not you became aware of the fact that**  
 8 **Mr. Hewett was concerned about the effect the moratorium was**  
 9 **having on him. Does that help you remember that you were**  
 10 **aware that Mr. Hewett was concerned?**  
 11 **A That discussion was at the meeting.**  
 12 **Q It was at a township meeting?**  
 13 **A Yes.**  
 14 **Q Do you recall any more details about that**  
 15 **discussion?**  
 16 **A They were concerned of losing their -- what**  
 17 **word do I want to use, their --**  
 18 **Q Sales agreement?**  
 19 **A Sales agreement or agreement they had with Mr.**  
 20 **Corneal because they were afraid that the ordinance wasn't**  
 21 **going to get passed in time.**  
 22 **Q For them to go through with the purchase of**  
 23 **the farmhouse --**  
 24 **A Yes.**  
 25 **Q -- and 26 acres? Do you know what eventually**

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1 did happen with respect to that sales agreement?  
 2 **A The only thing I know is they bought property**  
 3 **somewhere else. I don't know what happened with --**  
 4 **Q Do you know why they didn't purchase Mr.**  
 5 **Corneal's property?**  
 6 **A Someone said that -- and I -- I shouldn't do**  
 7 **that. No, I don't know.**  
 8 **Q Well, this is a discovery deposition so any**  
 9 **facts or information or memory that you have is useful.**  
 10 **A Well, I don't -- I don't know who told me that**  
 11 **they had taken their agreement away or something from Mr.**  
 12 **Corneal and were going to buy the Rosdil property, I**  
 13 **believe.**  
 14 **Q Is that in Jackson Township?**  
 15 **A Yes.**  
 16 **Q Did they tell you -- did that person tell you**  
 17 **why they were taking that property -- or they were, as you**  
 18 **said, taking the agreement away from Mr. Corneal?**  
 19 **A No.**  
 20 **Q Do you have any idea why they decided not to**  
 21 **go through with that sale?**  
 22 **A The only thing I got from -- John called me**  
 23 **whenever he was buying another piece of property and wanted**  
 24 **to know if I could do some work for him there so he could**  
 25 **get his flowers planted. I --**

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1 **Q Did he talk with you at that time about the**  
 2 **Corneal property?**  
 3 **A No.**  
 4 **Q Did he talk with you about the subdivision**  
 5 **ordinance?**  
 6 **A I don't remember.**  
 7 **Q I'm not sure if I asked you this before, but I**  
 8 **need to ask you now. Is it your understanding that before**  
 9 **the board of supervisors can approve a subdivision ordinance**  
 10 **-- I'm sorry, a subdivision plan, that that plan has to go**  
 11 **to the Huntingdon County Planning Commission first?**  
 12 **A Absolutely.**  
 13 **Q Then it comes back to the board of supervisors**  
 14 **and then they can approve it finally?**  
 15 **A It has a stint with the DEP too.**  
 16 **Q After the board of supervisors approves it,**  
 17 **then the property owner can complete the subdivision and**  
 18 **begin building, assuming all the permits are in place,**  
 19 **correct?**  
 20 **A Can record the subdivision in the office in**  
 21 **the courthouse in Huntingdon and proceed on.**  
 22 **Q If the subdivision has already occurred, can**  
 23 **they go ahead and -- can the property owner go ahead and**  
 24 **apply for building permits and get moving on it?**  
 25 **A That was the sticking point, I believe, at**

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1 **some of the meetings because the subdivision had never been**  
 2 **approved and Mr. Corneal wanted building permits and he had**  
 3 **no sewage permits. So there was nothing issued.**  
 4 **Q Let me just go back a second. If the property**  
 5 **had already been subdivided prior to the time that you had**  
 6 **your subdivision ordinance in place, could then Mr. Corneal**  
 7 **have gone and applied for his sewage permits and his**  
 8 **building permits?**  
 9 **A If Mr. Corneal would have brought his**  
 10 **subdivision in before the end of '99, as I had suggested to**  
 11 **him, that it would be easier to get it before the new**  
 12 **regulations were in place, everything would have gone right**  
 13 **through, but things are -- things are a little different now**  
 14 **with an ordinance.**  
 15 **Q But when he brought his subdivision plan in**  
 16 **there wasn't any ordinance, was there?**  
 17 **A When he brought his subdivision plan in?**  
 18 **Q When he brought his subdivision plan into the**  
 19 **board of supervisors there wasn't any subdivision ordinance,**  
 20 **was there?**  
 21 **A No subdivision ordinance, right.**  
 22 **Q Did you want to look at that document for some**  
 23 **reason?**  
 24 **A No, just to clarify my mind.**  
 25 **Q On the date that Mr. Corneal brought his**

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1 subdivision ordinance to --  
 2 **MR. SHERR: That document being what has been**  
 3 **previously marked as Wilson Number 3.**  
 4 **BY MS. MONTGOMERY:**  
 5 **Q Are you satisfied that you're correct in your**  
 6 **earlier statement?**  
 7 **A There was no subdivision in Jackson Township.**  
 8 **I'm satisfied with that.**  
 9 **Q No subdivision ordinance you mean?**  
 10 **A No subdivision ordinance, yes.**  
 11 **Q When Mr. Corneal brought his subdivision plan**  
 12 **to the township?**  
 13 **A No, when he brought it to the township there**  
 14 **was a moratorium on.**  
 15 **Q But no subdivision ordinance?**  
 16 **A Right.**  
 17 **Q I have a question for you about -- I want to**  
 18 **go back for just a second to the sequestration order that's**  
 19 **in place. This morning did you have an opportunity to speak**  
 20 **with anybody about these depositions?**  
 21 **A No.**  
 22 **Q About your deposition?**  
 23 **A No. Well --**  
 24 **Q You said no. Okay, fine. When you got here**  
 25 **this morning, what did you do?**

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1 MR. SHERR: If you need to explain your prior  
 2 answer, feel free to do that.  
 3 MS. MONTGOMERY: I'm sorry, I didn't mean to  
 4 cut you off.  
 5 THE WITNESS: Well, I discussed when I left  
 6 the shop this morning with my son that I had -- I was  
 7 probably going to be gone all day at depositions. And of  
 8 course coming down here, as soon as I come in, I set down  
 9 and then Tony showed up and we asked to have a conference  
 10 with our attorney and we did that and then it was time to  
 11 come down here.  
 12 BY MS. MONTGOMERY:  
 13 Q Who was all involved in that conference?  
 14 A Ann Wirth, Mike Yoder and myself and counsel.  
 15 Q That was this morning here in this office?  
 16 A Yes.  
 17 Q Where did you go to have that conference?  
 18 A A-3? Yeah.  
 19 Q Into a conference room?  
 20 A Yes.  
 21 Q And did you discuss your deposition at that  
 22 conference?  
 23 MR. SHERR: Objection as to anything that was  
 24 discussed at that meeting.  
 25 MS. MONTGOMERY: Well, you're under a court

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1 order not to discuss the depositions with the other  
 2 defendants.  
 3 MR. SHERR: Attorney/client privilege. I'm  
 4 under a court order not to discuss the substance of  
 5 depositions and we're following the court order. So if you  
 6 think --  
 7 MS. MONTGOMERY: Well, you don't need to coach  
 8 the witness.  
 9 MR. SHERR: -- that that abrogates the  
 10 attorney/client privilege, then let's go talk to the judge  
 11 about it.  
 12 MS. MONTGOMERY: We shall.  
 13 MR. SHERR: All right, let's do it right now.  
 14 That will be the end of this deposition until we talk to the  
 15 judge. Come on.  
 16 MS. MONTGOMERY: Are you going to call the  
 17 judge?  
 18 MR. SHERR: Well, let's go over -- I'll call.  
 19 MS. MONTGOMERY: You can ask her.  
 20 MR. SHERR: You want -- if you want to  
 21 abrogate the attorney/client privilege --  
 22 MS. MONTGOMERY: You want to call. What's  
 23 your question going to be?  
 24 MR. SHERR: My question is going to be whether  
 25 or not it was proper to assert the attorney/client privilege

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1 where I just did.  
 2 MS. MONTGOMERY: Go ahead and call her.  
 3 MR. SHERR: I don't need to call her. If you  
 4 don't need to call her, I don't need to call her.  
 5 MS. MONTGOMERY: You just said you wanted to  
 6 call her.  
 7 MR. SHERR: No, if you question whether or not  
 8 it was proper for me to assert the attorney/client privilege  
 9 or if you were going to ask him more questions about what  
 10 was discussed --  
 11 MS. MONTGOMERY: Could you read back the last  
 12 say three questions. You have to go back to when -- can you  
 13 do that? Would that be too much of a problem?  
 14 (The reporter read back as follows:  
 15 "QUESTION: I have a question for you about  
 16 -- I want to go back for just a second to the sequestration  
 17 order that's in place. This morning did you have an  
 18 opportunity to speak with anybody about these depositions?  
 19 ANSWER: No.  
 20 QUESTION: About your deposition?  
 21 ANSWER: No. Well --  
 22 QUESTION: You said no. Okay, fine. When you  
 23 got here this morning, what did you do?  
 24 MR. SHERR: If you need to explain your prior  
 25 answer, feel free to do that.  
 QUESTION: I'm sorry, I didn't mean to cut you  
 off.  
 ANSWER: Well, I discussed when I left the  
 shop this morning with my son that I had -- I was probably  
 going to be gone all day at depositions. And of course  
 coming down here, as soon as I come in, I set down and Tony  
 showed up and we asked to have a conference with our  
 attorney and we did that and it was time to come down here.  
 QUESTION: Who was all involved in that  
 conference?  
 ANSWER: Ann Wirth, Mike Yoder and myself and  
 counsel.

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1 QUESTION: That was this morning here in this  
 2 office?  
 3 ANSWER: Yes.  
 4 QUESTION: Where did you go to have that  
 5 conference?  
 6 ANSWER: A-3? Yeah.  
 7 QUESTION: Into a conference room?  
 8 ANSWER: Yes.  
 9 QUESTION: And did you discuss your deposition  
 10 at that conference?"  
 11 MS. MONTGOMERY: And the objection is?  
 12 MR. SHERR: I stated the basis for it,  
 13 didn't I?  
 14 MS. MONTGOMERY: I just wanted to hear it so  
 15 we're clear about it. Can you tell me what the objection  
 16 was?  
 17 MR. SHERR: Just so we're clear, since we were  
 18 talking over each other, the objection was based on  
 19 attorney/client privilege.  
 20 BY MS. MONTGOMERY:  
 21 Q Who asked for that court conference?  
 22 MR. SHERR: Excuse me? Objection. Who asked  
 23 for what conference?  
 24 BY MS. MONTGOMERY:  
 25 Q I'm sorry, who asked for that conference here  
 this morning in this office?  
 A I did.  
 Q You did?  
 A Yes.



**APPENDIX - I**

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Exhibit "1" Plaintiffs' Amended Complaint

Exhibit "2" Deposition Testimony of W. Thomas Wilson

Exhibit "3" Deposition Testimony of David Corneal

Exhibit "4" Deposition Testimony of Ann I. Wirth

Exhibit "5" Deposition Testimony of Larry Newton

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1 Q All right. Do you know why Miss Wirth  
2 accompanied you into that conference?  
3 A Yes.  
4 Q Why?  
5 MR. SHERR: I'll caution you not to discuss  
6 anything that was discussed during the conference in my  
7 presence because it's privileged by the attorney/client  
8 privilege.  
9 THE WITNESS: No comment.  
10 BY MS. MONTGOMERY:  
11 Q Did you discuss with Miss Wirth prior to your  
12 attorney being here why she would come into the conference  
13 with you?  
14 A Yes.  
15 Q And what was the nature of that discussion?  
16 A We're concerned about the welfare of one of  
17 our supervisors that's -- and we'd like to see him  
18 dismissed.  
19 Q From this case?  
20 A From deposition, that's ...  
21 Q You're talking about Mr. Weiler?  
22 A Yes. He's not well and that's why I called  
23 that this morning because I'm afraid the man will die and I  
24 don't want to do that.  
25 Q And what is wrong with Mr. Weiler?

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1 A He's got a bad heart and he's trying to take  
2 care of his sister, too, and she's dying of cancer.  
3 Q How old is Mr. Weiler?  
4 A Seventy-two.  
5 Q Does he work?  
6 A No.  
7 Q Is he retired?  
8 A Yes.  
9 Q Does he still attend township supervisor  
10 meetings?  
11 A Yes.  
12 Q When was your last township supervisor  
13 meeting?  
14 A They're always the first Monday of the month.  
15 I -- I don't know.  
16 Q Was there any kind of a meeting this week of  
17 the township supervisors?  
18 A If it was the first Monday -- I'm sorry.  
19 Q You don't recall?  
20 A I don't recall.  
21 Q Did you have some sort of a meeting with Barry  
22 Parks this week?  
23 A No.  
24 Q Was Mr. Weiler at the last township meeting?  
25 A Yes.

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1 Q Where does he live?  
2 A Up Allan Seegar Road, approximately five miles  
3 from the fire hall.  
4 Q So he travels to the fire hall for the  
5 township meetings?  
6 A Yes.  
7 Q In the evenings?  
8 A Yes.  
9 Q And what's the matter with Mr. Weiler's heart?  
10 A He's had two heart attacks and he's got a lot  
11 of fluid and he has to wear oxygen at night because they're  
12 afraid he's going to have a --  
13 Q I'm sorry, he has to wear what at night?  
14 A Oxygen.  
15 Q Oxygen?  
16 A Yeah, for -- to sustain him through the  
17 night. They think he'll just die. So I'm concerned.  
18 Q Having told me that, I still need to ask you  
19 the question why you decided that Miss Wirth had to  
20 accompany you to that meeting?  
21 A All three of us were in that meeting.  
22 Q That still doesn't explain why Miss Wirth had  
23 to accompany you into the meeting.  
24 A Miss Wirth calls him several times a day to  
25 make sure he's okay and his sister is okay.

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1 Q With respect to Miss Wirth's interaction with  
2 the township supervisors, does she pretty much do everything  
3 with the township supervisors? Does she accompany you on  
4 all of your say outings and jaunts, wherever you have to go,  
5 if you have to go up and see the township solicitor and  
6 stuff like that?  
7 A Yes.  
8 Q Does she come to every meeting with the  
9 township solicitor that you can think of?  
10 A Yes.  
11 Q Why is that?  
12 A Because I can't remember things and I -- we --  
13 I'm sorry, we depend on her to take notes and keep us  
14 apprised of what I said or did or something I --  
15 Q Is she pretty much involved in every event or  
16 task or undertaking that occurs among the township  
17 supervisors then?  
18 A We burden her with all the letters,  
19 correspondence, calls that have to be made. We -- that is  
20 her duty, we assume, yes.  
21 Q Do you recall whether you discussed the  
22 agreement of sale between John Hewett and the Corneals --  
23 well, I should say the Hewetts and the Corneals with Larry  
24 Newton?  
25 A No.

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1 Q You don't think you discussed that with them?  
 2 A No.  
 3 Q Did you ever tell them anything about the fact  
 4 that the Hewetts had abandoned that agreement of sale at any  
 5 time?  
 6 A No.  
 7 Q Do you know anything about a Department of  
 8 Environmental Protection or any other governmental complaint  
 9 that was filed against the Corneals in connection with their  
 10 property?  
 11 A I know of no formal complaint.  
 12 Q Do you know of an investigation that was  
 13 performed by any governmental entity in connection with  
 14 wetlands on their property?  
 15 A Yes.  
 16 Q What do you know about it?  
 17 A When the -- Mr. Corneal took his subdivision  
 18 into county planning to have it reviewed to get his -- as we  
 19 suggested, as a jump ahead, a letter is -- comes out of  
 20 there from the review and on that letter it's noted -- which  
 21 is why the township uses the county planning to oversee the  
 22 county and how it goes to the comprehensive plan. It was  
 23 listed that there were steep slopes and hydric soils in  
 24 association -- those are usually associated with wetlands.  
 25 This is standard procedure with all our

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1 subdivisions. Those readouts come to us and I'm sure Mr.  
 2 Corneal got one too because on the carbon at the bottom --  
 3 there's carbon copies of who all it got too.  
 4 And those things we have to investigate as a  
 5 township because of the situation we're in. We're in a high  
 6 quality stream area, prominent trout streams, and we work  
 7 closely with the soil conservation district. And every  
 8 chance we get, we get money from them to help with our roads  
 9 and stuff and we need -- we need to keep that cooperation  
 10 going because we need that money. So we look after our  
 11 environment, that's ...  
 12 Q What about -- let's see, who do you typically  
 13 rely upon to tell you whether or not there's wetlands on a  
 14 property that an individual seeks to build --  
 15 A The conservation district.  
 16 Q What about the sewage enforcement officer?  
 17 A He may say that there's some there, but that  
 18 isn't our final authority to clear -- to satisfy us. The  
 19 conservation district does that.  
 20 Q So typically if you get a -- say a request for  
 21 a building permit or a proposed subdivision plan in which  
 22 the sewage enforcement officer has already done a site  
 23 investigation and percolation test report, okay, and on that  
 24 test report there's an indication that there aren't any  
 25 wetlands, do you then always go and ask somebody else for a

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1 second opinion on that?  
 2 A There aren't any, is that what you asked me?  
 3 Q Yes.  
 4 A I'm sorry.  
 5 Q If the sewage enforcement officer says there's  
 6 no wetlands on the property, do you always go and get  
 7 somebody else to tell you whether that's correct or do you  
 8 accept his word for it?  
 9 A No. No, that report will come from the  
 10 county.  
 11 Q Well, let's look a second. I mean, as you  
 12 understand it, is there an entry on the form sewage  
 13 facilities planning module that comes from the Commonwealth  
 14 for checking off whether or not there are wetlands, as you  
 15 understand it?  
 16 A I believe that you -- the sewage officer  
 17 checks that off.  
 18 Q Right. So that's really what I'm asking you.  
 19 A That's correct, he checks that off, but when  
 20 -- the whole subdivision plan comes from just the areas  
 21 that he has done his site work, he sees no wetlands, okay,  
 22 but whenever the overall plan is reviewed by the county,  
 23 where they have the big maps, if they see that there's  
 24 something there that was walked by or around or there's a  
 25 hollow or something there that the sewage officer really

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1 didn't have any business in there, he isn't looking for  
 2 suitable sites, then it's handled by the conservation  
 3 district.  
 4 Q So why don't you hold on to that exhibit which  
 5 is Wilson Exhibit 2, right?  
 6 A Yes.  
 7 Q And let's look at the place on there where  
 8 there's a place for the sewage enforcement officer to check  
 9 on whether or not there's going to be any wetlands affected  
 10 by the construction of a proposed -- construction of a  
 11 sewage system at a proposed site, okay. So we have a space  
 12 for that on here, right, on page 2; isn't that correct? Do  
 13 you see that?  
 14 A Yes.  
 15 Q It's Question 1.3, right?  
 16 A Yes.  
 17 Q Actually that wasn't the one, I'm sorry. When  
 18 you looked at this sewage module for the Corneal's property  
 19 and under those questions it says -- for example, 1.3, will  
 20 any work associated with this project take place within 50  
 21 feet of a stream, waterway or wetland and it's checked yes,  
 22 correct?  
 23 A Yes.  
 24 Q Now, it says stream, right, on the other side  
 25 of it?

**WILSON, W. THOMAS**  
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1 A Um-hum.  
 2 Q Correct? Did you express any concern to the  
 3 SEO about that?  
 4 A I never seen this before today.  
 5 Q You never saw this before today?  
 6 A No.  
 7 Q It wasn't submitted with Mr. Corneal's  
 8 initial --  
 9 MR. SHERR: I'm going to object to both  
 10 attorneys asking questions.  
 11 MS. MALADY: I'm sorry.  
 12 MS. MONTGOMERY: She's talking to me.  
 13 MR. SHERR: Well, she's talking out loud and I  
 14 think that has to be placed on the record if she's thinking  
 15 out loud at a deposition.  
 16 BY MS. MONTGOMERY:  
 17 Q The sewage facilities planning module was not  
 18 attached to any subdivision plan that Mr. Corneal submitted  
 19 to the township?  
 20 A I've never seen the subdivision plan.  
 21 Q Did Mr. Corneal try to hand you a subdivision  
 22 plan at a township meeting one time?  
 23 A He laid a subdivision plan on the desk on the  
 24 table at our meeting -- oh boy, February? And he was  
 25 informed that there was no subdivisions being reviewed at

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1 this time because of the moratorium and he suggested that --  
 2 someone suggested to him, one of the supervisors or -- that  
 3 if he -- it had to go to the -- the Huntingdon County  
 4 Planning to be reviewed anyhow and if he wanted to have a  
 5 step up while we're working on the ordinance to take it in.  
 6 I -- I seen it. I couldn't even tell you what it looks  
 7 like. He laid it down there and he picked it up and took  
 8 off with it.  
 9 Q Are you saying that he took the plan back with  
 10 him?  
 11 A Yes.  
 12 Q Did he try to get you to keep the plan?  
 13 A No.  
 14 Q He put it in front of you and you said we  
 15 don't want this plan right now, take it to the Huntingdon  
 16 County Planning Commission?  
 17 MR. SHERR: Object to the form of the  
 18 question. You're trying to misstate his testimony at this  
 19 time.  
 20 BY MS. MONTGOMERY:  
 21 Q You can correct me if I'm wrong, Mr. Wilson.  
 22 You told him we're not going to take your plan right now,  
 23 you should take it to the Huntingdon County Planning  
 24 Commission; is that correct?  
 25 A No.

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1 Q What was correct?  
 2 A It was -- it was suggested -- he wondered  
 3 about the procedure. It was suggested that to save time he  
 4 take it to Huntingdon County to have it reviewed, but still  
 5 no action can be taken on it until the supervisors sign it.  
 6 Q So I think what you're telling me is that it  
 7 may or may not have been attached to the subdivision plan  
 8 but you didn't look at the subdivision plan on the day that  
 9 he gave it to you; is that correct?  
 10 MR. SHERR: Objection. The question is  
 11 ambiguous and you didn't define what it is. You can answer  
 12 the question.  
 13 BY MS. MONTGOMERY:  
 14 Q Do you understand my question?  
 15 MR. SHERR: You can answer the question if you  
 16 understand the question.  
 17 THE WITNESS: There were no items attached to  
 18 that plan that he laid on the table and took off. I -- I  
 19 think he told us at the meeting when he laid it down it's  
 20 for five lots. I can't -- and that's -- that's ...  
 21 BY MS. MONTGOMERY:  
 22 Q So is what you're calling a plan just a map?  
 23 A Subdivision plan, a layout with all the  
 24 details, sewage, probes, percs, everything is on there,  
 25 wetlands, everything, streams, roads, yes.

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1 Q And you're saying that there were -- there was  
 2 nothing attached to that the day that he came to the  
 3 meeting?  
 4 A No, it was just a -- a piece of paper.  
 5 Q Just one piece of paper?  
 6 A Yes.  
 7 Q In any event, if the sewage enforcement  
 8 officer tells you that there are no wetlands on a piece of  
 9 property on which an individual is seeking to build and  
 10 place an on-lot septic system, do you accept his word for  
 11 it?  
 12 A Not if the county sends out its referral that  
 13 there's wetlands on that property.  
 14 Q Is that what happened with Mr. Corneal's  
 15 property?  
 16 A Yes.  
 17 Q The county came back and said there are  
 18 wetlands on that property?  
 19 A Yes.  
 20 Q Then did you call and file a complaint against  
 21 Mr. Corneal about an attempt to construct on property with  
 22 wetlands?  
 23 A No.  
 24 Q Did Ms. Wirth to your knowledge?  
 25 A No.

**WILSON, W. THOMAS**  
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1 Q Do you know how the Army Corps of Engineers  
2 came to go out and do an investigation on Mr. Corneal's  
3 property?  
4 A **I don't know.**  
5 Q Do you know that they did an investigation on  
6 Mr. Corneal's property?  
7 A **Yes.**  
8 Q Do you know why they did an investigation on  
9 his property?  
10 A **I talked to the director of the Huntingdon**  
11 **County Conservation District after that because I got a -- I**  
12 **personally received a call from the conservation district**  
13 **and I asked Andy what happened, because we refer these to**  
14 **Andy. He's in charge of the county.**  
15 **Well, he was concerned because they'd already**  
16 **issued -- which we didn't know. They told us at that time**  
17 **issued a permit for a stream crossing and then we had this**  
18 **wetland issue. So he assumed -- he didn't go out to look at**  
19 **the -- he just issued the permit to -- I think he told me it**  
20 **was McClintic. And after this alarm went off, he decided to**  
21 **call in someone else to assist them with the evaluation of**  
22 **that property.**  
23 Q So is it your belief, your understanding that  
24 the Army Corps of Engineers showed up there because of  
25 something the county did?

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1 A **No, something that the conservation district**  
2 **asked them to do.**  
3 Q You think the conservation district called the  
4 Army Corps of Engineers and said you need to go do an  
5 investigation?  
6 A **I assume that. I didn't call them.**  
7 Q Who did you talk to from the conservation  
8 district about this?  
9 A **Andy Patterson.**  
10 Q And who is Andy Patterson?  
11 A **Director.**  
12 Q Director of -- what's your conservation  
13 district?  
14 A **Huntingdon County.**  
15 Q Is that a county district or is it a federal  
16 district or what?  
17 A **County.**  
18 Q And so you think that Andy Patterson called  
19 the U.S. Army Corps of Engineers and had them come out?  
20 A **I don't know.**  
21 Q Do you know whether Miss Wirth called anybody  
22 in connection with possible wetlands on Mr. Corneal's  
23 property?  
24 A **I don't know.**  
25 Q Did you call anybody in connection with

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1 possible wetlands on Mr. Corneal's property?  
2 A **No.**  
3 Q Do you have any -- can you think of any other  
4 instance wherein a sewage enforcement officer in Jackson  
5 Township has been unconcerned about wetlands and the county  
6 has expressed some concern about wetlands?  
7 A **No.**  
8 Q Can you think of another instance?  
9 A **No.**  
10 Q Just Mr. Corneal's instance?  
11 A **That's -- that's the only one I can think of.**  
12 Q Do you know of any instance at all when  
13 anybody called any government agency and filed a complaint  
14 about Mr. Corneal?  
15 A **No.**  
16 Q Did you ever discuss with Larry Newton the  
17 denial of the Corneal -- or the refusal of the Corneal  
18 subdivision plan?  
19 A **No.**  
20 Q Not ever, not even to this day?  
21 A **We're in litigation with Mr. Corneal, the**  
22 **township.**  
23 Q You mean up in the county?  
24 A **Yes.**  
25 Q So you've discussed it with him in connection

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1 with that?  
2 A **Mr. Newton is aware that the subdivision is**  
3 **not approved.**  
4 Q When did he become aware of that?  
5 A **I don't know.**  
6 Q If you're going to ask Mr. Newton for advice  
7 on behalf of the township supervisors, do you call him or  
8 does Miss Wirth call him?  
9 A **It depends.**  
10 Q Do you sometimes call him?  
11 A **Yes.**  
12 Q Have you ever called him for advice in  
13 connection with the Corneal property?  
14 A **No.**  
15 Q Have you ever called him with a group of other  
16 people for advice in connection with the Corneal property?  
17 A **No.**  
18 Q Have you ever directed anybody to call him for  
19 advice in connection with the Corneal property?  
20 A **No.**  
21 Q Do you know whether anybody among the  
22 township supervisors or Miss Wirth or the sewage enforcement  
23 officer or anybody else connected with the township has  
24 called Mr. Newton for advice in connection with the Corneal  
25 property?

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1 A No.  
2 Q You don't know or you think they haven't?  
3 A I don't know.  
4 Q What about in connection with the subdivision  
5 ordinance, did you call him personally and ask him how you  
6 ought to go about enacting a subdivision ordinance?  
7 A No.  
8 Q Do you know whether anybody else did?  
9 A I don't know.  
10 Q Do you know whether you heard from any of the  
11 others in your group, your township supervisors, the  
12 township secretary, Ann Wirth, the sewage enforcement  
13 officer, anybody in the township governing body whether they  
14 had gotten advice from Larry Newton about the subdivision  
15 ordinance?  
16 A I don't know.  
17 Q What about the moratorium?  
18 A I'm sorry?  
19 Q What about the moratorium? Do you know  
20 whether any of the township supervisors or the secretary or  
21 the sewage enforcement officer or any other township  
22 official sought advice from Mr. Newton about the moratorium?  
23 A I don't know.  
24 Q When you were going through with enacting the  
25 ordinance, did you believe that you were doing it in

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1 -- well, you mean before it was passed you had been working  
2 on it for two years?  
3 A (Witness nods head affirmatively.)  
4 Q So that would be sometime in 1998, correct?  
5 A Yes.  
6 Q What all did you do in connection with working  
7 on enacting the subdivision ordinance?  
8 A Attended -- attended all the sessions that  
9 were available at the state convention, discussed with other  
10 townships as to the procedure they followed and just kept  
11 working at it and working at it and put it -- it finally got  
12 to the county and they reviewed it and then they wanted some  
13 changes. So it wasn't easy. It wasn't easy, but we have  
14 it.  
15 Q Did you make successive drafts of it?  
16 A I think the -- the draft that was up that went  
17 to the county -- the answer is yes, that's -- I'm sorry, I'm  
18 a little slow.  
19 Q Who typed up the drafts for you?  
20 A I believe they were done in the township  
21 office.  
22 Q You think Miss Wirth typed them?  
23 A If she didn't, she had somebody do it. I -- I  
24 believe that. I didn't ask.  
25 Q Did you send the draft ordinances to Larry

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1 accordance with the law?  
2 A Yes.  
3 Q How did you believe that?  
4 A The Township Code and the Municipal Planning  
5 Act.  
6 Q Who studied that for you?  
7 A Who studied that?  
8 Q Yes.  
9 A We have it. We read it.  
10 Q So you read it and you thought that you were  
11 doing the right thing?  
12 A We did the right thing.  
13 Q Did you actually sit down and open it up at  
14 some point and say, gee, I better make sure I'm doing the  
15 subdivision ordinance procedures correctly? Is that what  
16 you did, or you just thought you knew them in your head or  
17 what?  
18 A Oh, no. Used the law to formulate what we  
19 did, the code.  
20 Q Let me ask you this: How long were you  
21 considering enacting the subdivision ordinance as a body,  
22 the township board of supervisors?  
23 A We've been working on it for pretty near two  
24 years.  
25 Q So that means you've been working on it since

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1 Newton as they were being considered?  
2 A No.  
3 Q Do you know if anybody else sent the draft  
4 ordinances to Larry Newton as they were being considered?  
5 A I don't know.  
6 Q Did you keep copies of the draft ordinances  
7 available for the public to look at as it was under  
8 consideration for that two year period?  
9 A At several of our meetings the drafts were  
10 available for the citizens and they were reviewed and they  
11 had the opportunity to come to the township office to review  
12 them as we were progressing along because we have some  
13 citizens in the township that are very concerned with  
14 heritage and they wanted to make sure that everything was  
15 covered in there because of our quaint little villages and  
16 buildings that are around there.  
17 Q Now, if the draft ordinances were taken to a  
18 township meeting and made available for the public, that  
19 would be reflected in the minutes, correct?  
20 A It should be reflected in -- yes.  
21 Q Would you have put an advertisement or  
22 anything in the paper to say at the township meeting we're  
23 going to be circulating the proposed draft subdivision  
24 ordinance so the public can come look at it?  
25 A No.



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1 Q So how would the public know that it was there  
2 to come look at it?  
3 A **Public meeting every month.**  
4 Q Just because it's a monthly public meeting?  
5 A **Yes.**  
6 Q So if there is something special going on at a  
7 public meeting, don't you usually put a notice in the paper?  
8 A **Yes.**  
9 Q But you didn't consider the circulation of a  
10 proposed draft subdivision ordinance something special that  
11 you needed to put the public on special notice of?  
12 A **Not at those stages.**  
13 Q Ultimately when you got your final subdivision  
14 ordinance completed in the form that you thought you could  
15 enact, did you then send it to Larry Newton --  
16 A **Yes.**  
17 Q -- for review? Do you know when you did that?  
18 A **No.**  
19 Q Do you know who did it?  
20 A **Who delivered it to him?**  
21 Q **Yes.**  
22 A **I don't know.**  
23 Q Do you have any memory whatsoever of which  
24 township supervisor first asked the board to consider a  
25 moratorium on development in the township?

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1 MR. SHERR: Objection. It's been asked and  
2 answered. Sorry, I thought you were done. Objection, it's  
3 been asked and answered. You can answer it again.  
4 THE WITNESS: No.  
5 BY MS. MONTGOMERY:  
6 Q Did you send your proposal or a proposal for a  
7 moratorium to the Huntingdon County Planning Commission?  
8 A **I don't know.**  
9 Q Do you recall discussing it with the  
10 Huntingdon County Planning Commission at all prior to the  
11 time that you put it in place in January 2000?  
12 A **No.**  
13 Q Do you recall when you sent the final  
14 subdivision ordinance to the Huntingdon County Planning  
15 Commission for its review?  
16 A **No.**  
17 Q Do you recall that you did send it to the  
18 Huntingdon County Planning Commission for review? Do you  
19 recall sending it to the Huntingdon County Planning  
20 Commission for review at all?  
21 A **Yes.**  
22 Q When did you do that?  
23 A **I don't remember.**  
24 Q You just didn't remember exactly when?  
25 A **(Witness shook his head negatively.)**

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1 Q Was it after it was passed?  
2 A **No.**  
3 Q Do you think it was before it was passed?  
4 A **We had to have their input to get the final**  
5 **draft.**  
6 Q You did get some input from the Huntingdon  
7 County Planning Commission on that final draft?  
8 A **Oh, yes.**  
9 Q How much input did you get?  
10 A **Pages I'm --**  
11 Q Do you know what happened to those pages --  
12 what, was it comments or something written on the drafts  
13 that you sent?  
14 A **They sent back the copy with recommendations**  
15 **of changes to the ordinance, additions, deletions, that type**  
16 **of thing.**  
17 Q Do you know what happened to those drafts with  
18 the notes of the Huntingdon County Planning Commission?  
19 A **No.**  
20 Q Do you think they still exist somewhere?  
21 A **I don't know.**  
22 Q What about the driveway ordinance that you put  
23 in place in the township, did you send that to the  
24 Huntingdon County Planning Commission for its review?  
25 A **No.**

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1 Q Why not?  
2 A **I don't know.**  
3 Q Prior to enacting the ordinance did the  
4 township charge residents fees when they put in a driveway,  
5 when the residents put in a driveway?  
6 A **No.**  
7 Q Was there any kind of a charge at all imposed  
8 upon a resident in connection with their construction of a  
9 driveway?  
10 A **Before the ordinance?**  
11 Q Before the ordinance.  
12 A **None.**  
13 Q Now, that wasn't -- you're saying the township  
14 didn't do it. Do you know whether anybody else did it?  
15 A **No one else did it.**  
16 Q Correct me if I'm wrong, you're saying that no  
17 one at all charged any sort of a fee in connection with the  
18 right to construct a driveway?  
19 A **Before the ordinance?**  
20 Q Before the ordinance.  
21 A **No fee.**  
22 Q In your capacity as Eagle Excavation Company,  
23 did you ever go out and inspect driveways after they were  
24 constructed?  
25 A **I don't understand.**

**WILSON, W. THOMAS**  
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- 1 Q Did you ever go out and inspect a driveway  
2 just to see whether it was constructed properly through  
3 Eagle construction?  
4 A I'm --  
5 Q Did you go out and inspect a driveway for  
6 proper construction in the township through Eagle  
7 construction?  
8 A No.  
9 Q Did you ever get involved at all in inspecting  
10 driveways in the township?  
11 A Not before I was a supervisor.  
12 Q Well, since you were a supervisor, did you  
13 ever get involved in inspecting driveways?  
14 A I do them all. I'm the road master.  
15 Q You do it all?  
16 A Yes.  
17 Q So as the road master did you go out and  
18 inspect driveways?  
19 A Yes.  
20 Q Did you charge a fee in connection with that  
21 inspection?  
22 A No.  
23 Q Did you charge anything for doing that?  
24 A No.  
25 Q So you just went out as the road master and

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- 1 wanted to construct a driveway that they had to come to the  
2 board of supervisors for inspection of the driveway to make  
3 sure it was satisfactory?  
4 A There was no rule that that was done. If the  
5 property owner didn't come to the meeting, their neighbor  
6 soon was on the phone calling and saying, hey, there's  
7 something going on over here and it should be checked.  
8 That's the --  
9 Q So what would you do, go out and check it?  
10 A Yes.  
11 Q So you'd say, okay, I got a call from a  
12 neighbor, I better go out and check that driveway to make  
13 sure it's being constructed properly, right?  
14 A Yes.  
15 Q And you did that prior to the enactment of the  
16 driveway ordinance, correct?  
17 A Yes.  
18 Q You never charged any sort of fee or anything  
19 in connection -- to anybody --  
20 A No.  
21 Q -- in connection with those inspections? Did  
22 Eagle construction ever charge any sort of fee in connection  
23 with those inspections?  
24 A Not unless they were asked by the property  
25 owner to install a pipe or put stone or something on there.

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- 1 said, well, I think your driveway is okay?  
2 A And make suggestions of what they should do to  
3 it, yeah.  
4 Q Was that prior to the ordinance?  
5 A Yes.  
6 Q What authority -- I mean, I'm really just  
7 trying to understand. What was the authority for your going  
8 to inspect driveways as the road master?  
9 A We live in a rural area. Everybody is --  
10 knows everybody and everybody wants things as smooth as  
11 possible. So if someone is putting in a driveway, they come  
12 to the supervisor's meeting and say, you know, I want to put  
13 a driveway in here. And we as a unit -- two or three of the  
14 supervisors will go out to that site and look to see if it's  
15 safe or not to have a driveway there. It was -- it wasn't  
16 any law or anything. It's just -- it was just common  
17 courtesy. We just -- it was a service.  
18 Q Well, if you didn't think that the driveway  
19 was okay, did you tell them they couldn't construct it as  
20 the board of supervisors?  
21 A No, we told them how they had to construct it.  
22 Q So you told them how. And this was before the  
23 ordinance, correct?  
24 A Yes.  
25 Q Did you let it be known that if a resident

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- 1 Not for -- not for looking at the site.  
2 Q So if you went out and you said, okay, this  
3 driveway isn't being constructed properly, would you direct  
4 the resident to stop construction of the driveway?  
5 A He was advised to construct it properly or the  
6 next time the grader would come by he would lose his  
7 driveway if it wasn't done to a standard.  
8 Q Did you ever talk to your solicitor about  
9 whether the township had the authority to oversee the way  
10 people constructed their driveways without the enactment of  
11 a driveway ordinance?  
12 A No.  
13 Q You never discussed it with Larry Newton?  
14 A Never.  
15 Q What about when you put your driveway  
16 ordinance in place, did you send that to him for review?  
17 A I don't remember.  
18 Q So were you present at the meeting -- you were  
19 present, I think you said, at the meeting of the board of  
20 supervisors in January 2000 when the moratorium was put in  
21 place, correct?  
22 A Yes.  
23 Q Who else was there?  
24 A I'm lost. What do you -- do you mean in the  
25 audience or --



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1 Q All --  
 2 A All three supervisors, the secretary, and I  
 3 don't recall who else. It would have to be -- it should be  
 4 in the -- on the minutes.  
 5 Q Do you recall what members of the public were  
 6 there? Were the Hewetts there?  
 7 A I don't recall.  
 8 Q Was Mr. Corneal there?  
 9 A No.  
 10 Q Do you recall whether there was any member of  
 11 the public there?  
 12 A Oh, yes, there was people there. I --  
 13 Q Can you estimate how many?  
 14 A Eight or 10.  
 15 Q You think there were eight or 10 people  
 16 there. And how many residents are there in the township?  
 17 A 816.  
 18 Q I think you indicated earlier that Mr. Corneal  
 19 had brought a subdivision plan in initially and you told him  
 20 he had to take it to the Huntingdon County Planning  
 21 Commission, there was a moratorium in place, correct?  
 22 A Correct.  
 23 Q Who spoke those words, you?  
 24 MR. SHERR: I'm going to object to the form of  
 25 the question in that there's never been any testimony that

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1 saying it was suggested to save him time he could take it to  
 2 the county.  
 3 Q Who told Mr. Corneal that?  
 4 A Maybe I did. I -- I don't know.  
 5 Q You don't recall which supervisor actually  
 6 talked?  
 7 A We all talk. We have a small community and we  
 8 all talk.  
 9 Q Was Miss Wirth talking, do you recall?  
 10 A I'm sure. Everybody --  
 11 Q Does Miss Wirth usually talk at the township  
 12 meetings a lot?  
 13 A When she's asked to.  
 14 Q When she's asked to by whom?  
 15 A The supervisors or if it's a question  
 16 concerning some correspondence or something, then somebody  
 17 from the audience might say, Ann, did you get my letter or  
 18 did you -- you know, that type of thing.  
 19 Q Does Miss Wirth give advice to the township  
 20 residents or the people in attendance at the township  
 21 meetings regarding what's proper and what isn't proper about  
 22 township business?  
 23 A Well, if she does, I -- I don't know what it  
 24 is because she's not an elected official. She's our  
 25 secretary.

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1 those words were spoken.  
 2 MS. MONTGOMERY: Well, he just said yes to the  
 3 answer to my question.  
 4 MR. SHERR: And his prior testimony was  
 5 different from that, that -- and that may have been the gist  
 6 of what was said, but I don't think he's ever testified --  
 7 MS. MONTGOMERY: I'm not --  
 8 MR. SHERR: Please just let me finish so we  
 9 don't talk over each other so she can get us both down.  
 10 Thank you.  
 11 MS. MONTGOMERY: I'm not going to allow you to  
 12 coach your witness on the record.  
 13 MR. SHERR: And I'm not coaching my witness.  
 14 All I'm asking you to do is let me finish making my  
 15 statement so the court reporter can take it down and then  
 16 you can say whatever you have to say.  
 17 MS. MONTGOMERY: Are you finished?  
 18 MR. SHERR: I think I am.  
 19 BY MS. MONTGOMERY:  
 20 Q I believe you testified earlier that when Mr.  
 21 Corneal came and first presented his subdivision plan to the  
 22 board of supervisors that he was told that there was a  
 23 moratorium in place and that he should take his plan to the  
 24 Huntingdon County Planning Commission; is that correct?  
 25 A I don't believe -- I could correct it by

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1 Q Did you need to get some water?  
 2 A Please.  
 3 Q Go right ahead.  
 4 (Pause.)  
 5 BY MS. MONTGOMERY:  
 6 Q Do you recall Mr. Corneal asking you at the  
 7 meeting in which he was told that there was a moratorium in  
 8 place for any copy that existed -- of any written copy that  
 9 existed of the moratorium, do you recall that?  
 10 A No.  
 11 Q Do you recall Mr. Corneal asking for a copy of  
 12 the draft subdivision plan?  
 13 A No.  
 14 Q You don't recall him asking at any time for a  
 15 copy of the draft subdivision plan?  
 16 A No.  
 17 Q Did you ever learn from anybody else that he  
 18 asked for a copy of a draft subdivision plan -- I'm sorry, I  
 19 keep using plan and I apologize, a draft subdivision  
 20 ordinance.  
 21 A No.  
 22 Q So if you misunderstood my prior questions, I  
 23 will repeat them to you. I was asking whether you  
 24 understood -- whether you heard from anybody else that Mr.  
 25 Corneal had asked for a copy of the draft subdivision

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1 ordinance at any time.  
 2 A No.  
 3 Q You never heard about that?  
 4 A **(Witness shook his head negatively.)**  
 5 Q Do you recall whether the Corneals ever  
 6 submitted a revised subdivision plan after their -- they  
 7 were initially told that there was a moratorium in place?  
 8 A No.  
 9 Q You don't recall them ever doing that?  
 10 A No.  
 11 Q Do you recall the March 2000 meeting of the  
 12 board of supervisors?  
 13 A **Unless there was something that happened.**  
 14 Q I'm sorry?  
 15 A **Unless there was something that happened that**  
 16 **would stick in my mind. Maybe it was a routine meeting. I**  
 17 **-- I don't know. I'd have to look at the minutes.**  
 18 Q I'll get you the March minutes and maybe that  
 19 will help you recall. Just give us a second.  
 20 A **While you're doing -- while you're searching**  
 21 **for that, can I go to the rest room?**  
 22 Q Men's room?  
 23 A Yes.  
 24 Q Sure.  
 25 (Break taken at 11:47 a.m. until 12:01 p.m.)

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1 BY MS. MONTGOMERY:  
 2 Q Mr. Wilson, we're back on the record. I'm  
 3 going to ask you, did you review any documents in  
 4 preparation for this deposition?  
 5 A No.  
 6 Q Have you reviewed any documents at all in  
 7 connection with the filing of this lawsuit?  
 8 A **No, I just keep going over the last -- that**  
 9 **thing I received on July 4th. I just keep looking at that.**  
 10 **I have it laying on my freezer.**  
 11 Q What did you receive on July 4th?  
 12 A **I was served with a lawsuit.**  
 13 Q With the complaint?  
 14 A **Yeah.**  
 15 Q Now, I think you testified a moment ago that  
 16 you don't recall whether the Corneals submitted a revised  
 17 subdivision plan?  
 18 A **Not that I know of.**  
 19 Q Do you recall the April 2000 meeting of the  
 20 board of supervisors?  
 21 A No.  
 22 Q Do you recall whether -- well, do you recall  
 23 whether there was any meeting after the January meeting in  
 24 which the moratorium was announced and then the February  
 25 meeting in which you -- Mr. Corneal was told his subdivision

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1 plan couldn't be approved? Do you recall him coming to a  
 2 meeting and asking for a copy of the proposed subdivision  
 3 ordinance?  
 4 A No.  
 5 Q Do you recall Mr. Corneal coming to the April  
 6 meeting -- or to any meeting and asking that the supervisors  
 7 sign his sewage modules?  
 8 A Yes.  
 9 Q Could you tell me what you recall about that  
 10 meeting?  
 11 A **Do you have the minutes?**  
 12 Q Yes, I do.  
 13 A **I'm sorry.**  
 14 Q Sure.  
 15 MS. MONTGOMERY: We'll mark this as Wilson  
 16 Exhibit 4.  
 17 (Minutes dated 4/3/00 produced and marked as  
 18 Wilson Exhibit No. 4.)  
 19 BY MS. MONTGOMERY:  
 20 Q When you're finished, Mr. Wilson, just let me  
 21 know.  
 22 A **Okay.**  
 23 Q Now, you asked to review the April 3rd  
 24 minutes. Why did you need to review them?  
 25 A **I can't remember the meetings.**

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1 Q Now that you've reviewed the minutes do you  
 2 think you can remember the meeting a little better?  
 3 A Yes.  
 4 Q Now, tell me what you recall about the April  
 5 3rd, 2000 meeting.  
 6 A **Mr. Corneal had a handful of sewage modules**  
 7 **that he wanted the township supervisors to sign and the**  
 8 **supervisors would not sign them because we didn't have the**  
 9 **subdivision plan or anything.**  
 10 Q So the reason you wouldn't sign the sewage  
 11 modules is because you didn't have what, a map, a plan?  
 12 A Yes, and we -- and we have no -- we had no  
 13 idea all these months what Mr. Corneal's plans were. He  
 14 kept changing things.  
 15 Q Well, how did you know he kept changing  
 16 things?  
 17 A **I had a call from Attorney Newton that Mr.**  
 18 **Corneal had dropped off a subdivision plan at his office.**  
 19 **Well, he had to -- and I don't remember who went in and**  
 20 **picked it up, that's 16 miles away, but brought it out. But**  
 21 **these are the -- these are the kind of things we had no**  
 22 **idea, no continuity of what was happening here.**  
 23 Q So going back to your testimony about Mr.  
 24 Newton, I think you'd indicated that you didn't recall  
 25 discussing Mr. Corneal's subdivision plan with Mr. Newton.

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1 Now do you recall discussing --  
 2 A Well, I didn't discuss it with him. He called  
 3 and said he dropped it off here and assumed that we needed  
 4 it. I didn't discuss anything with Larry.  
 5 Q Well, when I say discussion, I guess I'm just  
 6 talking about any conversation, any contact, any words  
 7 exchanged whatsoever about Mr. Corneal's subdivision or his  
 8 property. That's what I'm trying to get to.  
 9 So we don't need to limit ourselves to what  
 10 you might consider to be a discussion. I'm talking about  
 11 any contact, written, verbal, telephone call, meeting along  
 12 the street, formal, informal, anything.  
 13 A That's what it was.  
 14 Q And do you have any idea why Mr. Corneal took  
 15 the subdivision plan to Mr. Newton's office and dropped it  
 16 off?  
 17 A No, I don't.  
 18 Q Did Mr. Newton tell you why Mr. Corneal  
 19 dropped the subdivision plan off at his office?  
 20 A No.  
 21 Q Did somebody go out and pick it up, you said,  
 22 from Mr. Newton?  
 23 A Yeah, and I don't even know who.  
 24 Q And what did you do with it then?  
 25 A Well, it should be at the township office.

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1 That's the one with the orange lines on it. There's --  
 2 there's been various pieces of -- and designs and cut down  
 3 the lots and stuff. I -- I don't even know where it's at.  
 4 I don't even know what the -- what the last plan is.  
 5 Q Do you understand why Mr. Corneal went from  
 6 proposing five or more lots to proposing fewer lots?  
 7 A I don't know.  
 8 Q You understand that he did, though, go from  
 9 proposing more lots to proposing fewer lots, correct?  
 10 A Yes, I ...  
 11 Q And do you understand as well that the sewage  
 12 enforcement officer had approved sewage modules for at least  
 13 five lots and later Mr. Corneal only wanted to take it down  
 14 to two of those lots; isn't that correct? Do you understand  
 15 that?  
 16 A Yes.  
 17 Q Do you understand also that the latest sewage  
 18 module that Mr. Corneal brought to you really only related  
 19 to one lot, the 95 -- the whole 95-acre piece?  
 20 A Yes.  
 21 Q So he was really only asking you to approve  
 22 the sewage module so he could build his house on his  
 23 property, correct?  
 24 A No.  
 25 Q What do you understand?

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1 A I don't understand that. He hired another  
 2 attorney and his attorney and I have been working to try to  
 3 get this resolved. And we went into a land development  
 4 plan, not a subdivision, and that's what we've been working  
 5 on with Terry Williams, and it still isn't -- they're  
 6 working on -- they're meeting on that lot today to discuss  
 7 the sewage problem. So I -- I'm at a loss. I'm still at a  
 8 loss as a supervisor as to what's happening at the Corneal  
 9 property.  
 10 Q Well, this is May 2001. We're going back to  
 11 the last time that David Corneal came in and the April 2000  
 12 meeting with these modules that you wouldn't sign. Do you  
 13 understand at that point that he had said, okay, all I  
 14 really want to do now is build my house?  
 15 A No.  
 16 Q What do the minutes say?  
 17 A It says he's no longer subdividing them and  
 18 would like to build a -- we had no idea the way things have  
 19 been changing that -- what was going to happen the next day.  
 20 Q Did Mr. Corneal ever change the site of the  
 21 approved -- the approved septic sites that your sewage  
 22 enforcement officer had approved, did he change those sites?  
 23 A I'm sorry, I --  
 24 Q Did he move them? Did he say I want -- I want  
 25 a new -- I want a new test site approved or --

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1 A No.  
 2 Q -- was he just using the already approved test  
 3 sites and saying I want to build and use one of them?  
 4 A That's what I understand.  
 5 Q So he had approved test sites from the sewage  
 6 enforcement officer and what he was doing was just changing  
 7 down the number of possible buildings that he might ever put  
 8 on that property; isn't that correct?  
 9 A Possible.  
 10 Q Now, it reads in the April 3, 2000 minutes  
 11 that the supervisors told him that they weren't going to  
 12 issue a building permit for a property that they know is  
 13 going to be subdivided, correct?  
 14 A Correct.  
 15 Q So despite the fact that Mr. Corneal came and  
 16 said, okay, fine, I'm not going to subdivide, you said I  
 17 can't subdivide, I just want to build my house, you said he  
 18 can't even have a building permit for his house because you  
 19 think he might subdivide later, correct?  
 20 A He needed a sewage permit to get a building  
 21 permit for his house.  
 22 Q Right, but he couldn't get a sewage permit  
 23 until you signed the sewage module, correct?  
 24 A Right.  
 25 Q So you wouldn't sign the sewage module because

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1 you thought he might want to subdivide later, correct?  
 2 **A My -- and this is my opinion at that meeting,**  
 3 **not to sign those five modules because Mr. Corneal could do**  
 4 **whatever he wanted on that property without any okay from**  
 5 **the township, any plan.**  
 6 **Q Well, that's not accurate, is it, because he**  
 7 **still had to go get a sewage permit?**  
 8 **MR. SHERR: Objection, argumentative. You can**  
 9 **answer.**  
 10 **BY MS. MONTGOMERY:**  
 11 **Q He still had to go get the permit for the**  
 12 **sewage, right, but he needed the sewage module first,**  
 13 **correct?**  
 14 **A For the land -- for the land development why**  
 15 **would he need the sewage module. It's just like --**  
 16 **Q Go ahead. I don't mean to --**  
 17 **A The property, okay, wasn't being split, okay,**  
 18 **so he was going with a land improvement. All he had to have**  
 19 **was an approved site there for a new house and everything**  
 20 **would have been fine, but we've cluttered the landscape so**  
 21 **bad over there we don't know what Mr. Corneal is doing.**  
 22 **Q Mr. Corneal, as you testified a moment ago,**  
 23 **told you at this April 3, 2000 meeting that he just wanted**  
 24 **to build a house on the property, correct?**  
 25 **A Yeah, but he's -- we've had several stories**

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1 **from Mr. Corneal, what he was doing, and we didn't know what**  
 2 **was happening.**  
 3 **Q Didn't Mr. Corneal's stories change only as he**  
 4 **received refusals from the township for permission to do**  
 5 **what it was that he wanted to do?**  
 6 **A Yes.**  
 7 **Q Right?**  
 8 **A Yes.**  
 9 **Q So the last thing he came and said is I'd like**  
 10 **-- I just want to build my house. Can you please sign**  
 11 **these sewage modules and I'll get my septic system in for my**  
 12 **house, one house, right?**  
 13 **A Well, that's what he said.**  
 14 **Q But you wouldn't sign them because you**  
 15 **thought, well, he really wants a subdivision so I'm not**  
 16 **going to open this door for him; isn't that correct?**  
 17 **A We were not signing five sewer modules for one**  
 18 **house.**  
 19 **Q Well, it just gives him an option where he**  
 20 **wants to place his house, doesn't it?**  
 21 **A He already had a house started, didn't he.**  
 22 **Q I don't know if he had a house started on**  
 23 **April 3, 2000.**  
 24 **MR. CORNEAL: No.**  
 25 **BY MS. MONTGOMERY:**

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1 **Q Did he?**  
 2 **A I don't know. Of course, I wasn't allowed on**  
 3 **that property.**  
 4 **Q Let's talk about the building permit. Did you**  
 5 **have any discussions with your building permit officer about**  
 6 **whether or not Mr. Corneal ought to have a building permit?**  
 7 **A Yeah, the day Mr. Corneal was at the building**  
 8 **officer's house, yes. Dave called me.**  
 9 **Q He called you from his house?**  
 10 **A Yes.**  
 11 **Q And what did you tell Dave?**  
 12 **A I told him don't you dare issue him a permit.**  
 13 **Q Well, Mr. Corneal came to -- and when you say**  
 14 **Dave, you're talking about Mr. Van Dommelen, right?**  
 15 **A Yes.**  
 16 **Q Mr. Corneal actually came and just asked for**  
 17 **an application for a permit, correct?**  
 18 **A That isn't what I heard on the phone.**  
 19 **Q Well, he couldn't get a permit if he didn't**  
 20 **have an application, right?**  
 21 **A Well, I'm -- I'm telling you what -- the**  
 22 **conversation I had on the phone. He was -- I was asked if**  
 23 **there was to be a permit issued to Mr. Corneal and I told**  
 24 **him no way, we don't have the thing signed.**  
 25 **Q So was it your understanding that he had gone**

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1 **out and asked for a building permit for a house?**  
 2 **A No, a five-bay garage with an over-study.**  
 3 **Q So he had gone out and asked for a building**  
 4 **permit for a garage. And does a garage require sewage?**  
 5 **A If you have an over-study on it, there's going**  
 6 **to be water in there.**  
 7 **Q What's an over-study?**  
 8 **A Apartments, a living space up there.**  
 9 **Q I thought you said you hadn't seen any, you**  
 10 **know, plans or anything for what Mr. Corneal wanted to**  
 11 **build.**  
 12 **A No, Dave -- Dave told me that's what it was**  
 13 **when he called me.**  
 14 **Q Dave Van Dommelen told you he wanted a**  
 15 **five-bay garage with apartments over it and you said don't**  
 16 **you dare issue him a building permit?**  
 17 **A And he knows better than to issue a permit**  
 18 **without a sewage permit because there's potential -- there's**  
 19 **-- that building has potential for human habitat.**  
 20 **Q So did you tell Mr. Van Dommelen not to even**  
 21 **give him the application?**  
 22 **MR. SHERR: Objection, asked and answered.**  
 23 **THE WITNESS: No.**  
 24 **BY MS. MONTGOMERY:**  
 25 **Q No? Are you aware that Mr. Van Dommelen**

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<p style="text-align: right;">130</p> <p>1 refused to even give him an application?</p> <p>2 A No.</p> <p>3 Q You didn't know that?</p> <p>4 A No.</p> <p>5 Q So do you believe that it was appropriate for</p> <p>6 you at the April 3, 2000 township meeting to tell Mr.</p> <p>7 Corneal that he couldn't have a building permit for -- I'm</p> <p>8 sorry, that you couldn't sign the sewage module for one</p> <p>9 building because you thought he might subdivide?</p> <p>10 A Right.</p> <p>11 Q You think that was appropriate?</p> <p>12 A Yes.</p> <p>13 Q Even though he told you he wasn't going to</p> <p>14 subdivide?</p> <p>15 A Yes.</p> <p>16 Q You didn't have an approved subdivision plan</p> <p>17 at that point, right?</p> <p>18 A We didn't have anything except his handful of</p> <p>19 sewer modules.</p> <p>20 Q Because you told him there was a moratorium so</p> <p>21 he said, okay, I won't subdivide, right?</p> <p>22 A I'm sorry, my --</p> <p>23 Q I said when you had told him that there was a</p> <p>24 moratorium, he said, okay, I won't subdivide right?</p> <p>25 A Right.</p>	<p style="text-align: right;">132</p> <p>1 which Mr. Corneal and his property were discussed by you and</p> <p>2 the other township supervisors?</p> <p>3 A No.</p> <p>4 Q Well, I want to make sure that we're not</p> <p>5 unnecessarily limiting this information. So understand that</p> <p>6 I'm asking you whether there was any informal meeting</p> <p>7 whatsoever between any supervisor and anybody else, any</p> <p>8 township official about Mr. Corneal's property after he went</p> <p>9 out there and had that conversation with Mr. Van Dommelen</p> <p>10 about his building permit?</p> <p>11 A Not that I can recall.</p> <p>12 Q You talked a moment ago about Larry Newton</p> <p>13 calling you up and saying, well, I've got this subdivision</p> <p>14 application that Mr. Corneal dropped off. Now, was there</p> <p>15 any other telephone calls from or to Larry Newton about Mr.</p> <p>16 Corneal around that same time frame that you recall?</p> <p>17 A Not that I recall.</p> <p>18 Q Not necessarily that you took part in but that</p> <p>19 Miss Wirth or you or any other township supervisor or the</p> <p>20 building permit officer or the sewage enforcement officer.</p> <p>21 A Not that I recall.</p> <p>22 Q That's the only telephone call you can recall</p> <p>23 from or to Larry Newton about Mr. Corneal?</p> <p>24 A Yes.</p> <p>25 Q What about any other meeting, contact,</p>
<p style="text-align: right;">131</p> <p>1 Q Now, I understand that you told Mr. Van</p> <p>2 Dommelen not to issue him a building permit for his garage?</p> <p>3 A That's right.</p> <p>4 Q Are you aware that Mr. Van Dommelen told Mr.</p> <p>5 Corneal that there was going to be a meeting about his</p> <p>6 property the next day?</p> <p>7 A No.</p> <p>8 Q Was there a meeting about his property the day</p> <p>9 after he went out there and asked him -- Mr. Corneal went</p> <p>10 out and asked Mr. Van Dommelen for a building permit?</p> <p>11 A No.</p> <p>12 Q There was no meeting?</p> <p>13 A Not that I know of.</p> <p>14 Q Well, do you recall what day of the week it</p> <p>15 was when Mr. Van Dommelen called you about Mr. Corneal's</p> <p>16 request for a building permit application?</p> <p>17 A No.</p> <p>18 Q Do you recall whether or not the supervisors</p> <p>19 -- or any supervisor and Mr. Van Dommelen did in fact meet</p> <p>20 the next day or soon thereafter about Mr. Corneal and his</p> <p>21 property?</p> <p>22 A I don't know.</p> <p>23 Q Do you recall any meeting other than a formal</p> <p>24 monthly township supervisor's meeting or a special meeting</p> <p>25 that was called by the board of township supervisors during</p>	<p style="text-align: right;">133</p> <p>1 conference, conversation, discussion, anything after that</p> <p>2 time when Mr. Newton called about Mr. Corneal's subdivision</p> <p>3 plan?</p> <p>4 A I don't recall.</p> <p>5 Q But I think you testified, and you correct me</p> <p>6 if I'm wrong, that the call came from Larry Newton prior to</p> <p>7 the point that Mr. Corneal came in and asked to have his</p> <p>8 sewage modules signed at the April 3, 2000 meeting; isn't</p> <p>9 that correct?</p> <p>10 A I don't know that.</p> <p>11 Q You had indicated that you didn't have the</p> <p>12 subdivision plan in front of you when he brought the sewage</p> <p>13 modules in in April 2000?</p> <p>14 A (Witness nods head affirmatively.)</p> <p>15 Q And you also indicated that you knew that</p> <p>16 Larry Newton had them, had gotten a copy and that somebody</p> <p>17 had gone out and picked them up but you didn't know what</p> <p>18 happened to them, correct?</p> <p>19 A Exactly. I don't -- I don't know what the</p> <p>20 dates were on this, when -- when we had the call that there</p> <p>21 was a plan dropped off at Larry's office. I suppose it was</p> <p>22 the same -- at the Daily News, but I don't know what that</p> <p>23 day was and I don't know where that got to.</p> <p>24 Q Who talked to Larry Newton, who took that call</p> <p>25 from Larry Newton?</p>



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1 A That there was a plan in there? I assume the  
2 township office.  
3 Q Ann Wirth?  
4 A I'm assuming that.  
5 Q Well, you'd indicated that you didn't have the  
6 plot plan in front of you, but does an individual need a  
7 plot plan if they're not subdividing?  
8 A No. If they're doing land development, they  
9 do.  
10 Q I'm going to show you some documents. We'll  
11 just put them together as Wilson Exhibit 5. These are the  
12 February 24, 2000 and April 20, 2000 letters from the  
13 Huntingdon County Planning Commission.  
14 (Packet of documents produced and marked as  
15 Wilson Exhibit No. 5.)  
16 BY MS. MONTGOMERY:  
17 Q Take a moment to review them, Mr. Wilson.  
18 Have you seen these documents in the past?  
19 A Yes.  
20 MR. SHERR: Have you finished reviewing them?  
21 THE WITNESS: Yes.  
22 BY MS. MONTGOMERY:  
23 Q Have you seen the documents in the past? Are  
24 you ready? I think you testified you have seen the  
25 documents in the past, correct?

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1 A Yes.  
2 Q Did you see them at the time that they were  
3 first generated, like around the February 2000 time frame  
4 and around the April 2000 time frame?  
5 A When they came from the county, yes.  
6 Q Miss Wirth turned them over to you when they  
7 came from the county?  
8 A Yes.  
9 Q I'm going to draw your attention to the April  
10 20, 2000 letter from the Huntingdon County Planning  
11 Commission. Do you understand that letter to say that the  
12 commission found Mr. Corneal's property suitable for on-lot  
13 sewage disposal and --  
14 A Yes.  
15 Q -- for the -- yes, right?  
16 A Yes.  
17 Q I just want to make sure the court reporter  
18 understood that you said yes. Did you understand that the  
19 Huntingdon County Planning Commission found the property  
20 suitable for division into two lots?  
21 A Yes.  
22 Q Do you recall whether the subdivision plan for  
23 the two lots was returned to the township supervisors along  
24 with this letter?  
25 A I never seen it.

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1 Q So you don't know whether it was because it  
2 went to Miss Wirth, right?  
3 A Well, if it -- if it came, I should have it --  
4 the supervisors should have it. I'm curious if the plan  
5 came back.  
6 Q But this letter indicates that there was a  
7 subdivision plan for the two lots, correct?  
8 A Well, the proposal is a resubmission, Lot 1  
9 the residue and Lot 3 contains 25 acres.  
10 Q Let's read the first sentence, the Huntingdon  
11 County Planning Commission.  
12 A Has reviewed the above-referenced property.  
13 Q Proposal. Did you read that first sentence,  
14 Mr. Wilson?  
15 A Has reviewed the above-referenced proposal to  
16 subdivide a property containing 94.67 acres into two lots.  
17 Q Now, as you testified earlier, Mr. Corneal was  
18 directed or told that he had to submit his plan to the  
19 Huntingdon County Planning Commission first, correct?  
20 A For review.  
21 Q For review?  
22 A Yeah.  
23 Q So they reviewed it and sent it back to you,  
24 correct?  
25 A Yes.

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1 Q And said they found it suitable, correct?  
2 A Yes.  
3 Q So at what point do you believe that Mr.  
4 Corneal had not taken the proper steps to obtain permission  
5 to build a house on his property?  
6 A I -- I don't think -- and this is my opinion.  
7 I don't think that has anything to do with building a house  
8 here. This is approval of a subdivision, nothing about  
9 building a house.  
10 MR. SHERR: You're referring to the April 20th  
11 letter?  
12 THE WITNESS: Yes.  
13 BY MS. MONTGOMERY:  
14 Q Right, but didn't you indicate earlier that  
15 Mr. Corneal couldn't build because he didn't have -- hadn't  
16 submitted all the right plans, you didn't have a plan in  
17 front of you?  
18 MR. SHERR: I'm going to object to the form of  
19 the question because this is completely confusing. Are you  
20 discussing now in your question what you asked him about the  
21 April township meeting which occurred before the date of  
22 this letter that he has in front of him?  
23 MS. MONTGOMERY: That's what I'm asking him.  
24 MR. SHERR: Okay.  
25 THE WITNESS: Okay, I still haven't seen the

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1 subdivision thing that is discussed here, but regenerated  
 2 now into a new land development certificate, okay. It's  
 3 being processed by Terry Williams, his other attorney, and  
 4 we are -- we've had two hearings in the Huntingdon County  
 5 Courthouse that these things were supposed to be in order to  
 6 the satisfaction of Jackson Township by our judge.  
 7 And the last time we were in there the judge  
 8 said that we had 30 days to get this in order or we would be  
 9 back in. Well, we're way past the 30 days and I don't know  
 10 what's going on.  
 11 So I'm -- my thing is that I will -- when I  
 12 get back, I want to call our solicitor and have him call Mr.  
 13 Corneal's solicitor, new solicitor, and see what's happening  
 14 because Williams and I have met on several occasions to try  
 15 to get these things resolved and we don't seem to be getting  
 16 any further. It's just like it stopped.  
 17 BY MS. MONTGOMERY:  
 18 Q But the April 20, 2000 letter from the  
 19 Huntingdon County Planning Commission was written before  
 20 this lawsuit was initiated, correct?  
 21 A Yeah.  
 22 Q Before the Huntingdon County Commission  
 23 lawsuit, not the Huntingdon County lawsuit, was initiated by  
 24 the township, correct?  
 25 A Yes.

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1 Q So we're just talking about this period of  
 2 time here where you indicated that you had not seen and  
 3 still have not seen a subdivision plan, right?  
 4 A Right.  
 5 MR. SHERR: And just to be clear, again,  
 6 you're saying he indicated as of that April meeting he had  
 7 not seen a subdivision plan.  
 8 MS. MONTGOMERY: No, he indicated he still has  
 9 not seen the subdivision plan, that's what I'm questioning  
 10 him about.  
 11 MR. SHERR: Well, I think it's completely  
 12 ambiguous and I don't really understand what you're saying  
 13 and --  
 14 MS. MONTGOMERY: Well, then I'll just clarify  
 15 it.  
 16 MR. SHERR: That would be great.  
 17 MS. MONTGOMERY: And I don't think that your  
 18 witness is confused.  
 19 MR. SHERR: Well, I --  
 20 BY MS. MONTGOMERY:  
 21 Q What you testified was that you hadn't yet  
 22 seen an April -- I mean, you hadn't yet seen a subdivision  
 23 plan. Right now, today, you haven't seen one, correct?  
 24 A Correct.  
 25 Q I showed you an April 20, 2000 letter from the

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1 Huntingdon County Planning Commission indicating that they  
 2 had reviewed and were sending back to you with approval --  
 3 A Um-hum.  
 4 Q -- a two lot subdivision plan, right?  
 5 A Yeah.  
 6 Q And so I'm asking you why you hadn't seen the  
 7 plan, the Huntingdon --  
 8 A I still haven't seen it.  
 9 Q But you don't know why you haven't seen it?  
 10 A No.  
 11 Q That's all I'm trying to get to.  
 12 MR. SHERR: And did your question assume that  
 13 this letter somewhere said that they were sending the plan  
 14 back to the township?  
 15 MS. MONTGOMERY: Actually it's based on the  
 16 testimony from prior witnesses and this witness that the  
 17 Huntingdon County Planning Commission reviews the plan and  
 18 sends it back.  
 19 MR. SHERR: I don't remember any such  
 20 testimony.  
 21 MS. MONTGOMERY: Well, the record will speak  
 22 for itself.  
 23 MR. SHERR: It absolutely will.  
 24 BY MS. MONTGOMERY:  
 25 Q Let me ask you this, Mr. Wilson: When the

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1 Huntingdon County Planning Commission sends a letter like  
 2 this back, right, saying we've reviewed a plan, do they send  
 3 the plan back to the township?  
 4 A Not always.  
 5 Q Do they --  
 6 A They keep --  
 7 Q -- sometimes?  
 8 A They keep one on file. It depends on how --  
 9 maybe I should back up. Most of these things are submitted  
 10 to the county by either the owner or his representative. So  
 11 we don't know how many he drops in there. If they have an  
 12 extra one there, they'll send it back, but we still should  
 13 have one at the township and we don't -- well, it may be  
 14 there now. Things are so ...  
 15 Q Do you know whether or not Miss Wirth produced  
 16 to us a copy of this plot plan that was referenced in the  
 17 April 20, 2000 Huntingdon County Planning Commission letter,  
 18 if she produced it back to us in connection with this  
 19 litigation?  
 20 A I don't know. Is it possible to ask if we  
 21 could break? I have to go again and maybe we could eat.  
 22 Q Okay, sure.  
 23 (Luncheon recess taken at 12:36 p.m. until  
 24 1:30 p.m.)  
 25 BY MS. MONTGOMERY:

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1 Q Back on the record, Mr. Wilson. You're still  
2 under oath.  
3 A Okay.  
4 Q Do you recall whether at the February 2000  
5 meeting when Mr. Corneal brought his subdivision plan in the  
6 first time and you told him there was a moratorium, do you  
7 recall whether he told you and the supervisors at that  
8 meeting that the moratorium was illegal?  
9 A I don't recall that.  
10 Q Do you recall at any time hearing from anybody  
11 that Mr. Corneal thought that the moratorium was illegal,  
12 invalid?  
13 A If my memory serves me right, I -- it was at  
14 the next meeting he came that he said that.  
15 Q But you recall him saying it at one meeting or  
16 another?  
17 A Yes. Yes, I heard him say that.  
18 Q What did you say? Did you say anything back  
19 to him?  
20 A It is legal.  
21 Q According to who?  
22 A According to the township regulations.  
23 Q Do you recall anybody saying to him when he  
24 said it was illegal, not according to our solicitor?  
25 A No.

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1 Q You don't recall anybody answering him that  
2 way?  
3 A No.  
4 Q Well, once he said it was illegal, did you go  
5 check with your solicitor to find out whether he was --  
6 A No.  
7 Q -- correct or not?  
8 A No.  
9 Q You didn't?  
10 A No.  
11 Q Because you thought you knew yourself?  
12 A As I had testified before, there's been other  
13 townships in the county that had to do -- and surrounding  
14 areas that had to do the same thing and they're legal. I  
15 guess we'll find out. The law says it is.  
16 Q I'm going to show you a document that we'll  
17 mark as Wilson Exhibit 6. We'll have the court reporter  
18 mark it and then you can take a look at it.  
19 (Subdivision plan produced and marked as  
20 Wilson Exhibit No. 6.)  
21 BY MS. MONTGOMERY:  
22 Q Take a moment and look at it, Mr. Wilson, and  
23 I just want to ask you a couple questions about it. Just  
24 let me know when you're finished.  
25 A Okay.

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1 Q Have you seen this document before?  
2 A I seen a document that resembles this, but I  
3 don't remember the black lines that are through there.  
4 Q When you say it resembles this, do you mean  
5 that you saw a document where this property, the Corneal  
6 property, was broken up into these lots?  
7 A Yes.  
8 Q But you don't recall which black lines?  
9 A No. What I observe here is some of them --  
10 some of them aren't -- have been whited out or something.  
11 They're not continuous.  
12 Q Oh, I see.  
13 A I -- I recall seeing a document like this but  
14 it had different features on it. I mean, the lines don't  
15 seem to ring a bell.  
16 Q Okay. But just to be clear, do you recall  
17 seeing a document like this mapping out the Corneal property  
18 broken up into five lots?  
19 A I don't remember.  
20 Q In what context do you recall seeing a  
21 document that looked like this but maybe had somewhat  
22 different lines?  
23 A This -- this reminds me of the copy that I  
24 seen that came from Larry Newton that was dropped off he  
25 told me by Mr. Corneal, but it had bright orange lines on

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1 it. So it's -- the contrast of my eyes, it doesn't look --  
2 overall it looks the same, but it looks different inside.  
3 Q Maybe because that was the original and these  
4 are copies?  
5 A I ...  
6 Q She's going to go get the original, if she can  
7 find it. I mean, is that what's bothering you, that just  
8 the lines are a different color?  
9 A Well, yeah, and there's like three and a half  
10 that are -- that look like they've been whited out or  
11 something.  
12 Q Right, that might just be a copy problem, but  
13 we'll figure it out. So you say you think it might have  
14 been part of the materials that had gotten dropped off to  
15 Larry Newton?  
16 A That's my recollection, yeah.  
17 Q When did you see those materials that were  
18 dropped off to Larry Newton?  
19 A I don't recall.  
20 Q But you did see a plot plan in connection with  
21 the materials that were dropped off to Larry Newton?  
22 A The only thing I seen was a plan like this  
23 that had orange lines on it. I assume somebody reworked --  
24 Q Well, as we discussed earlier, Mr. Corneal's  
25 property has been reworked a number of times in terms of how



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1 many lots it's going to be in, right?  
 2 **A Yeah.**  
 3 **Q** Well, while we're waiting for her to bring  
 4 back the original, let's just have you look at this -- what  
 5 we're going to mark as Wilson Exhibit 7.  
 6 (Subdivision and land development ordinance  
 7 Jackson Township produced and marked as Wilson Exhibit  
 8 No. 7.)  
 9 **MS. MONTGOMERY:** You guys already have a copy  
 10 of this, the subdivision plan.  
 11 **MS. YANKANICH:** Yes.  
 12 **MS. MONTGOMERY:** You can look at your client's  
 13 copy if you like.  
 14 **BY MS. MONTGOMERY:**  
 15 **Q** I just want you to look at that and identify  
 16 it for the record, Mr. Wilson, if you will.  
 17 **A It looks like the -- a copy of the ordinance**  
 18 **-- subdivision and land use development ordinance of**  
 19 **Jackson Township.**  
 20 **Q** Can you turn to page 71 of the ordinance, to  
 21 the signatures on page 71.  
 22 **A Yes.**  
 23 **Q** Is that your signature there?  
 24 **A Yes.**  
 25 **Q** In the middle?

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1 **A Yes.**  
 2 **Q** So this is a copy of the subdivision and land  
 3 development ordinance that you passed as a township  
 4 supervisor for Jackson Township, correct?  
 5 **A Correct.**  
 6 **Q** Now, let me ask you this: Do you see -- you  
 7 testified the ordinance was passed on July 10, at a July 10,  
 8 2000 meeting, correct?  
 9 **A Correct.**  
 10 **Q** Do you know why this is dated July 7, 2000?  
 11 **A No idea.**  
 12 **Q** But you're quite certain that the meeting  
 13 occurred on July 10th, which is I believe a Monday, right?  
 14 **A I believe so.**  
 15 **Q** So the subdivision ordinance was actually  
 16 passed after this lawsuit was initiated, correct?  
 17 **A I don't know.**  
 18 **Q** I think you said you recall being served with  
 19 the papers on July 3rd, right?  
 20 **A 4th.**  
 21 **MR. SHERR:** He said July 4th.  
 22 **BY MS. MONTGOMERY:**  
 23 **Q** July 4th?  
 24 **A Yeah, it was a holiday.**  
 25 **Q** So the subdivision ordinance was passed then

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1 after you were served with the papers, correct, for this  
 2 lawsuit?  
 3 **A Yes.**  
 4 **MS. MONTGOMERY:** She doesn't have the  
 5 original. Well, all right then.  
 6 (Discussion held off the record.)  
 7 **BY MS. MONTGOMERY:**  
 8 **Q** Well, unfortunately we don't have the original  
 9 in the office of this plan, but I think you've answered  
 10 enough questions about it for right now. We're going to  
 11 move on to another one, okay.  
 12 I'm going to take you to a plan that actually  
 13 -- we have plans in the record from before, right, old  
 14 exhibits there? I think we'll just use them instead of  
 15 making new ones.  
 16 I'm going to show you what has previously been  
 17 marked as Parks Exhibit 2. This is a February 4, 2000 plan  
 18 of proposed subdivision and I'm going to ask you to look at  
 19 that and tell me whether or not you've seen that in the  
 20 past.  
 21 (Pause.)  
 22 **BY MS. MONTGOMERY:**  
 23 **Q** Do you recall seeing that document in the  
 24 past, Mr. Wilson?  
 25 **A I recall seeing a document that looked like**

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1 **this, but here -- I don't recall the changes.**  
 2 **Q** You recall seeing a subdivision plan, in other  
 3 words, for the Corneal property but maybe the lines were  
 4 different at some point or what?  
 5 **A The only -- I don't understand the -- it looks**  
 6 **like someone tried to take these out and they added a garage**  
 7 **or something here.**  
 8 **Q** Take what out, when you say tried to take  
 9 these out?  
 10 **A The lines. See, they're -- somebody took a**  
 11 **pen or something and tried to scribble them out.**  
 12 **Q** So it looks like it was a plan that was  
 13 somehow redrawn, is that what you mean?  
 14 **A Well, it's been altered, yes.**  
 15 **Q** Well, let me show you another document that's  
 16 been previously marked as Parks Exhibit 1, the April 7, 2000  
 17 subdivision plan for the Corneal property and ask you  
 18 whether you recall seeing that document.  
 19 **A There again, it resembles something that I**  
 20 **have seen. I don't know -- it looks like all the probes and**  
 21 **percs and everything that -- well, there isn't any percs on**  
 22 **here. All the soil logs and everything are established, but**  
 23 **there should have been a later one that I seen that -- where**  
 24 **the percs were done for these sites, and those aren't on**  
 25 **there. So apparently this is an earlier one.**

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1 Q Now, there are perc numbers on that map,  
 2 aren't there?  
 3 A Where?  
 4 Q Eight, 9, 10. Do you see that one circled  
 5 with the red ink?  
 6 A No, those are soil logs.  
 7 Q Okay. Those aren't perc numbers?  
 8 MR. CORNEAL: They're perc numbers.  
 9 BY MS. MONTGOMERY:  
 10 Q What makes you think they're not perc numbers?  
 11 A They're soil logs. Percs are done between the  
 12 soil logs to see if the site is approved.  
 13 Q Well, if I represent that your sewage  
 14 enforcement officer told us yesterday that they were perc  
 15 numbers, would that change your view of it?  
 16 A No.  
 17 MR. SHERR: Object to the form of the  
 18 question.  
 19 BY MS. MONTGOMERY:  
 20 Q I'm sorry, go ahead.  
 21 MR. SHERR: He answered the question.  
 22 BY MS. MONTGOMERY:  
 23 Q What did you answer?  
 24 MR. SHERR: He answered it no.  
 25 BY MS. MONTGOMERY:

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1 now, I've now shown you three maps and in response to each  
 2 of them you've said I've seen something that looks like  
 3 that.  
 4 A (Witness nods head affirmatively.)  
 5 Q But you think maybe the lines were a little  
 6 bit different or there was more or less detail, correct?  
 7 A They all look -- all the ones I've seen here  
 8 look altered.  
 9 Q Altered from the one that you saw?  
 10 A Yes.  
 11 Q When did you see the one that you saw?  
 12 A I've -- I don't know a date.  
 13 Q Have you only seen one?  
 14 A I glanced at the one Mr. Corneal brought into  
 15 the -- what meeting was it?  
 16 Q The February 2000?  
 17 A February. I glanced at it and then the next  
 18 one I seen was the one that came from the attorney which had  
 19 all the orange lines and changes or --  
 20 Q The one that had gotten dropped off to Larry  
 21 Newton --  
 22 A Yes.  
 23 Q -- and you didn't know how and somehow it came  
 24 back to you?  
 25 A Yes.

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1 Q Is that what you answered, no?  
 2 A No, they aren't percs.  
 3 (Discussion held off the record.)  
 4 BY MS. MONTGOMERY:  
 5 Q I'm going to ask you to look at the site  
 6 investigation and percolation test reports that are part of  
 7 Wilson 2 and just refer to the graph that's in the middle of  
 8 this perc test here, this perc test report. There's some  
 9 handwriting at the top.  
 10 MS. MONTGOMERY: And let the record reflect  
 11 I'm pointing to the words that start out perked between.  
 12 BY MS. MONTGOMERY:  
 13 Q Do you see that?  
 14 A Yeah, perked between 3 and 4.  
 15 Q So what do you take those numbers 3 and 4 to  
 16 mean?  
 17 A Soil logs. Right here.  
 18 Q So those are soil logs?  
 19 A That's a log, yes. That perc was done right  
 20 along Sawmill Road.  
 21 Q So you think the numbers are -- so there would  
 22 be separate perc numbers, are you saying, on a new map?  
 23 A Perc -- I don't know that. It's whatever the  
 24 surveyor draws up.  
 25 Q In any event, putting that aside for right

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1 Q When did you see that one -- or where did you  
 2 see it, I should say? Where were you when you saw it?  
 3 A I don't know. I don't -- I don't know about  
 4 these legal things. I was going to say probably, but that  
 5 -- that is -- that's flirty.  
 6 Q That's good enough for a deposition for right  
 7 now. If you don't know the exact date, then you can tell me  
 8 as close as you can possibly tell me.  
 9 MR. SHERR: Right, as long as you're not  
 10 guessing at it you can give --  
 11 THE WITNESS: Yeah, I don't know. I would be  
 12 guessing.  
 13 BY MS. MONTGOMERY:  
 14 Q Can you take a look at Wilson 5, the April  
 15 20th letter from the Huntingdon County Planning Commission.  
 16 Do you have it?  
 17 A Yes.  
 18 Q Can you look at the second page of that  
 19 letter. Do you see at the top where it says a detailed map  
 20 and study data, the second line?  
 21 A The second line of mine says investigation and  
 22 because maps submitted with the investigation did not --  
 23 Q No, you're looking at the wrong letter. Look  
 24 at the April 20th letter which is the second part of that.  
 25 A That's February.

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<p style="text-align: right;">154</p> <p>1 Q No, it's going to be on the same document, I  2 believe.  3 A Okay.  4 Q There you go. Now, look at the second page of  5 that letter, second line. Can you read that for me, please,  6 starting with the detailed map and study.  7 A A detailed map and study data identifying the  8 investigation area was submitted and indicates no wetlands  9 are present at the location of the lots in this proposal.  10 Q Do you recall reading that line before today?  11 A No.  12 Q Now, you testified earlier that you got these  13 letters when they come in, right?  14 A Yes.  15 Q You don't recall this letter telling you that  16 there aren't any wetlands implicated by Mr. Corneal's  17 proposed subdivision?  18 MR. SHERR: Object to the form of the  19 question. The letter speaks for itself, but I believe it's  20 talking about what the Blazosky Associates said.  21 THE WITNESS: I'm sure that I -- I've read it,  22 but I don't know when. That's what I'm -- I see lots of  23 these and I -- I just can't give a date.  24 BY MS. MONTGOMERY:  25 Q Well, with this letter in hand would you have</p>	<p style="text-align: right;">156</p> <p>1 Q Okay, that's good.  2 MR. SHERR: You can finish your answer.  3 BY MS. MONTGOMERY:  4 Q Are you finished with your answer?  5 A Well, the -- I -- the only -- I didn't know  6 how wide the road was going to be put in there. I know what  7 would be required under a subdivision ordinance, how wide it  8 would have to be, but I have no idea what Mr. Corneal was  9 going to do for a width of the road there, if it was 10  10 feet, 12 feet, 14 feet, I don't know.  11 Q But if you're going to concern yourself with  12 that sentence that began with the Huntingdon County  13 Conservation District, then let's also read the last  14 sentence in that paragraph.  15 A The Huntingdon County Conservation District?  16 Q The last sentence that begins road  17 improvements.  18 A Right, road improvements should be limited to  19 existing cartway widths.  20 Q So do you take that to mean that's how the  21 Huntingdon County Planning Commission was telling you  22 you could deal with that concern about widening of roads?  23 A If the road -- I believe I personally talked  24 with Andy and his thought was that the road was existing and  25 as long as the road wasn't built wider than it was it would</p>
<p style="text-align: right;">155</p> <p>1 any reason to believe that there was any problem with  2 wetlands on Mr. Corneal's property?  3 A Yes.  4 Q Why is that?  5 A A detailed map and study identifying the  6 investigation area was submitted and indicates no wetlands  7 are present at the location of the lots in this proposal.  8 Well, I -- I read in that the location of the lots, his  9 proposed house development, where the house is going to set,  10 because Mr. Corneal knows as well as anybody that there are  11 wetlands on that property.  12 Q So that's your concern?  13 A Well, no, it's addressed -- it was addressed  14 on -- a little further down by the conservation district  15 noting that widening of the road could impact potential  16 wetland areas.  17 Q On Lot 2, correct?  18 A Well, the map I have here, the potential was  19 for Lot 4 and Lot 2, potential for widening of roads which  20 -- it describes there, is on Lot 4 till it goes across the  21 power right-of-way.  22 Q But did you have any indication that there was  23 an intent to widen the road to access a new dwelling on  24 Lot 2?  25 A No, the only --</p>	<p style="text-align: right;">157</p> <p>1 be permissible through there, yeah.  2 Q Did Mr. Corneal ever come and ask you to build  3 that road wider than it was?  4 A No.  5 Q Thank you. Now, you had testified that when  6 you got the letter back from the Huntingdon County Planning  7 Commission that there wasn't any plan attached to it,  8 correct?  9 A That's what I recall.  10 Q That's what you recall, or at least the letter  11 you got didn't have a plan attached to it, right?  12 A Right.  13 Q The letter went to Ann Wirth, though, of  14 course, right?  15 A All letters go to the township office and then  16 they're disseminated from there.  17 Q Did you then say, well, you know, if I'm going  18 to consider this letter, maybe I need to look at the plan?  19 Did you ask for a plan? Did you ask anybody for a plan?  20 A No, no actions are being taken on this.  21 Q No action has been taken on this?  22 A Right. We weren't taking no action on that.  23 It just laid. I -- all I did was for my information look at  24 what the county was recommending.  25 Q Now, if the county was reviewing his</p>

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1 subdivision plan -- and I think you testified earlier that  
2 that was the first step that was necessary in reviewing --  
3 in getting subdivision approval in the township, right?  
4 **A Yes.**  
5 **Q** So the process was actually underway, correct,  
6 because the county had finished its review and sent it back  
7 to you, correct?  
8 **A No, we didn't have a copy of what was going**  
9 **on.**  
10 **Q** So did you ask for a copy of what was going  
11 on, now that you got this back from the county planning  
12 commission?  
13 **A There could have been an extra copy come back**  
14 **from the county, but I -- I don't know.**  
15 **Q** All I'm really asking you is, you know, why  
16 didn't you ask for one? If your copy of the letter didn't  
17 have one, why didn't you ask to see it? Why didn't you ask  
18 to see a copy of the plan?  
19 **A Because at the time there was no action being**  
20 **taken on his subdivision.**  
21 **Q** No action has ever been taken, right?  
22 **A Right.**  
23 **Q** Other than to deny it?  
24 **A Well, it wasn't -- it wasn't denied.**  
25 **Q** Okay.

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1 **A It was being held up by a moratorium and then**  
2 **things changed. Now we're into a land improvement.**  
3 **Q** But things didn't change at the point we filed  
4 this lawsuit, right? We weren't in land improvement when we  
5 filed this lawsuit, were we?  
6 **A No, no.**  
7 **Q** Does that mean, I guess, that that plan is  
8 still pending, the subdivision plan that was --  
9 **A No, his other attorney said there will be no**  
10 **subdivision. It was a land development and that is out.**  
11 **Q** Okay.  
12 **A No subdivision.**  
13 **Q** And in fact at that April 2000 meeting Mr.  
14 Corneal told you there was no subdivision, right?  
15 **A Right.**  
16 **Q** Now, I think you had indicated that the  
17 conservation district had expressed some concern about  
18 wetlands, right?  
19 **A That concern came when they became aware of**  
20 **that, which I'm assuming I initiated with Andy, because he**  
21 **had sent us a letter that they had issued a stream crossing**  
22 **permit and he wasn't familiar with the area.**  
23 **And when him and I talked, he sent one of his**  
24 **representatives out, I believe Dave Kreamer, one of his**  
25 **associates, to check it out, but I -- I have -- to this day**

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1 **I have never seen a permit for a stream crossing, other than**  
2 **the letter from the county conservation district.**  
3 **Q** So you're indicating that they had issued a  
4 stream crossing permit to Mr. Corneal?  
5 **A Mr. McClintic was on -- the name on it.**  
6 **Q** So are you saying now that you initiated the  
7 complaint with the conservation district?  
8 **MR. SHERR: Object to the form of the**  
9 **question. Misstating his testimony.**  
10 **MS. MONTGOMERY: I'm asking him what he said.**  
11 **MR. SHERR: Misstating -- you're stating what**  
12 **he said and that's incorrect what he said.**  
13 **BY MS. MONTGOMERY:**  
14 **Q** I said are you saying now -- do you understand  
15 my question? You just used the word I'm assuming I  
16 initiated the complaint and I'm trying to get you to tell me  
17 what you meant by that.  
18 **MR. SHERR: And I'm going to have to object**  
19 **again because it's not what he said and the record will**  
20 **reflect what he said --**  
21 **MS. MONTGOMERY: What did he say?**  
22 **MR. SHERR: -- and he did not say that.**  
23 **MS. MONTGOMERY: What did he say?**  
24 **MR. SHERR: The record will reflect what he**  
25 **said.**

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1 **MS. MONTGOMERY: Well, what did he say? You**  
2 **know that's not what he said so you must know what he did**  
3 **say. What did he say?**  
4 **MR. SHERR: I do, but I'm not going to answer**  
5 **your questions.**  
6 **MS. MONTGOMERY: Well, then don't object.**  
7 **MR. SHERR: I'm --**  
8 **MS. MONTGOMERY: Don't object. Keep going,**  
9 **Mr. --**  
10 **MR. SHERR: I'll absolutely object.**  
11 **BY MS. MONTGOMERY:**  
12 **Q** Mr. Wilson, are you confused by my question at  
13 all?  
14 **A Yeah. I said that maybe -- I don't recall,**  
15 **but maybe I initiated the call to Andy Patterson at the**  
16 **conservation district because I was shocked that they had**  
17 **issued a stream crossing permit for a high quality trout**  
18 **stream.**  
19 **And he said, well, we just normally do those**  
20 **things unless there's a problem and then we deal with it.**  
21 **Well, then when the wetland issue came up, that struck a**  
22 **light with him and he sent those guys out. And from what I**  
23 **gather, when they came out they came with the Corps of**  
24 **Engineers too. I -- I assume that.**  
25 **Q** Have you ever done that in the past, called

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1 the conservation district when you hear that they've issued  
 2 a permit for a stream crossing?  
 3 A I call the -- yes.  
 4 Q You have. In what instance did you do that?  
 5 A On occasions that I had to have a permit to  
 6 cross streams with my business.  
 7 Q Who issues -- is it the conservation district  
 8 that issues the stream crossing permit?  
 9 A Yes.  
 10 Q So that's a little bit different than the  
 11 question that I asked you. My question is: Did you ever  
 12 call to inquire or express a concern to the conservation  
 13 district after hearing that they had issued a stream  
 14 crossing permit to somebody else? Did you ever do that?  
 15 A We have never had one.  
 16 Q You never had one?  
 17 A There's never been another stream crossing  
 18 permit issued in our township.  
 19 Q Other than the ones that are issued to you for  
 20 your business?  
 21 A And for McClintic.  
 22 Q And for McClintic, I see.  
 23 A Well, I -- let me clarify that. I'm only one  
 24 contractor, okay. I'm -- I'm trying to -- I'm trying to  
 25 juggle these things of my work and what we're talking about

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1 here, but I was under the impression the way you talked of  
 2 how familiar I was with the conservation district and their  
 3 permits.  
 4 Q Well, really I was just saying -- it sounds to  
 5 me like in response to the conservation district issuing  
 6 McClintic a stream crossing permit you called the  
 7 conservation district --  
 8 A No, I didn't --  
 9 Q -- to express a concern.  
 10 A -- know he issued that until they sent a  
 11 letter out and then we got the feedback from the county  
 12 about the potential wetlands. That's when it tied together.  
 13 Q I see. So when you got the feedback from the  
 14 county and you knew about the stream crossing permit because  
 15 the conservation district had issued you a letter on that --  
 16 A Yes.  
 17 Q -- then you called them up and said do you  
 18 know about these wetlands on the Corneal property?  
 19 A Yes.  
 20 Q Is that what you did?  
 21 A And the answer was they'd never been on the  
 22 property, they didn't know. So they came out to investigate  
 23 to see if they had to pull the stream crossing permit.  
 24 Q From McClintic?  
 25 A Right, because if he was going to infringe

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1 upon wetlands -- see, they issue these on trust in there,  
 2 which surprised me with high quality water, but if there is  
 3 a problem attached with that that they find out later,  
 4 they'll pull the permit.  
 5 Q Well, who's McClintic?  
 6 A I don't -- a friend of Mr. Corneal's, I  
 7 believe.  
 8 Q So Mr. McClintic that you're talking about got  
 9 a stream crossing permit in connection with Mr. Corneal's  
 10 property, right?  
 11 A Yes.  
 12 Q To cross a stream on Mr. Corneal's property?  
 13 A Yes.  
 14 Q Now, let me ask you something. Have you  
 15 performed some work on some property owned by a gentleman  
 16 named Weaver or a family named Weaver --  
 17 A Bob?  
 18 Q -- close to Mr. Corneal's property?  
 19 A Yes.  
 20 Q You've performed some work on his property, on  
 21 Weaver's property?  
 22 A Yes.  
 23 Q Did you get a stream crossing permit in  
 24 connection with that job?  
 25 A That wasn't near a stream.

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1 Q You weren't near a stream. You didn't have to  
 2 cross a stream?  
 3 A No.  
 4 Q Did you have to cross wetlands in connection  
 5 with that job?  
 6 A No. Well, hold it, who are you talking  
 7 about? Are you talking about Bob or are you talking about  
 8 Adam?  
 9 Q Well, if there's a different Weaver that we're  
 10 talking about, then we'll talk about --  
 11 A I've done work for the son and the father.  
 12 Q In connection with either of the Weavers and  
 13 their properties --  
 14 A Well, clarify. Adam Weaver, we put a three or  
 15 four foot culvert across a ditch and, yes, I did contact the  
 16 conservation district for that.  
 17 Q Did you get a stream crossing permit?  
 18 A I didn't need one, the stream was dry. He  
 19 come out and looked at it and said to put it in.  
 20 Q Did you have to go near any wetlands to do  
 21 that?  
 22 A No. I work --  
 23 Q Go ahead.  
 24 A I work closely with the conservation  
 25 district. They've told me if we have to come out you're



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1 going to pay money, call us first.  
 2 Q So once you got that letter from the  
 3 Huntingdon County Planning Commission that indicated there  
 4 were some wetlands around the Corneal property, although  
 5 none of the lots, the proposed lots were on the wetlands,  
 6 correct?  
 7 A **(Witness nods head affirmatively.)**  
 8 Q And once you called the Huntingdon -- once you  
 9 called the conservation district and said, you know, you  
 10 issued a stream crossing permit on the Corneal property, did  
 11 you know there was wetlands, did you have any concerns after  
 12 that that there was any problem with Mr. Corneal's wetlands  
 13 or with -- I should say did you have any concerns after that  
 14 that there were problems with wetlands being affected on Mr.  
 15 Corneal's property?  
 16 A **Once I talked to the conservation district,**  
 17 **it's whatever their determination is satisfies the township.**  
 18 Q What did they decide, do you know?  
 19 A **I never got a letter.**  
 20 Q Did you get a report from the Army Corps of  
 21 Engineers?  
 22 A **No.**  
 23 Q You didn't get a letter from the conservation  
 24 district either?  
 25 A **There may have been a letter come in from**

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1 A **No.**  
 2 Q And I did say talk with so maybe I should say  
 3 did you ever communicate with him in any way or did he  
 4 communicate with you in any way about a concern over  
 5 wetlands on the Corneal's property?  
 6 A **No.**  
 7 Q Do you know whether he communicated or anybody  
 8 else -- do you know whether he communicated with anybody in  
 9 the township government or anybody in the township  
 10 government communicated with him about a concern over  
 11 wetlands?  
 12 A **I don't know.**  
 13 Q Did any of the other supervisors express any  
 14 concern to you about it?  
 15 A **No.**  
 16 Q How about Ann Wirth, did she express any  
 17 concern to you about wetlands?  
 18 A **No.**  
 19 Q So you didn't refuse to sign the sewage  
 20 modules because of a concern over wetlands, right?  
 21 A **Rephrase, please.**  
 22 Q You didn't refuse to sign Mr. Corneal's sewage  
 23 modules because of a concern over wetlands?  
 24 A **No.**  
 25 Q Let me ask you this: I hope I didn't ask you

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1 **Andy, but I don't recall.**  
 2 Q Did you call them back and say, hey, what did  
 3 you figure out out there on the Corneal property?  
 4 A **No.**  
 5 Q Do you know whether the conservation district  
 6 found it necessary to pull the stream crossing permit?  
 7 A **No.**  
 8 Q To be clear, are you saying you don't know or  
 9 no, they didn't find it necessary?  
 10 A **I don't know.**  
 11 Q You don't know. Did you call them back to  
 12 find out whether they had to pull that permit or not?  
 13 A **I have to talk to them on Monday. I haven't**  
 14 **-- I didn't call them back.**  
 15 Q You have to talk to him on this Monday you  
 16 mean?  
 17 A **This coming Monday, yes.**  
 18 Q But how long ago did you call him about that  
 19 wetland concern of yours?  
 20 A **Well, apparently it was after this letter.**  
 21 Q So it was like a year ago?  
 22 A **Yeah.**  
 23 Q Did you ever talk to the sewage enforcement  
 24 officer about any concern over wetlands on the Corneal  
 25 property?

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1 this before, and I apologize if I did, but has the board of  
 2 township supervisors ever refused to sign sewage modules  
 3 that had been approved by the sewage enforcement officer  
 4 other than Mr. Corneal's?  
 5 A **No, not that I know of.**  
 6 Q Now, did you have any involvement at all with  
 7 anybody concerning Mr. Corneal's request for a privy permit?  
 8 A **I called the sewage officer. I said you do**  
 9 **your job, that's what I told him.**  
 10 Q Did you have some reason to believe he wasn't  
 11 going to do his job?  
 12 A **Well, I know how persuasive some individuals**  
 13 **can be so I just reminded him he was an employee of the**  
 14 **township and he should do his job.**  
 15 Q Did you have some experience where Mr. Parks  
 16 didn't do his job in the past?  
 17 A **No.**  
 18 Q So when you told him to do his job, what did  
 19 you mean by that?  
 20 A **Make sure that he did his job, the**  
 21 **regulations, DEP.**  
 22 Q Did you tell him not to issue a privy permit  
 23 to Mr. Corneal?  
 24 A **I don't know.**  
 25 Q Did you tell him not to help Mr. Corneal in

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1 any way with respect to his attempt to get a privy permit on  
 2 his property?  
 3 **A No, as I said, I told him to do his job.**  
 4 **Q Did you tell him not to cut him any breaks?**  
 5 **A No exceptions. We don't give anybody else**  
 6 **exceptions, none here.**  
 7 **Q Do you ever recall advising Mr. Parks not to**  
 8 **make any exceptions for anybody else?**  
 9 **A No.**  
 10 **Q Do you ever recall telling Mr. Parks maybe you**  
 11 **could make an exception for somebody?**  
 12 **A No.**  
 13 **Q Let me ask you this: Did you ever find it**  
 14 **necessary in the past to call up Mr. Parks and say don't**  
 15 **make any exceptions?**  
 16 **A No. Ask me one more.**  
 17 **Q What?**  
 18 **A Ask me one more.**  
 19 **Q Well, I can't guess what question you want me**  
 20 **to ask. If you want to clarify your answer --**  
 21 **A Well, I'd like to clarify my answer there.**  
 22 **Q Okay.**  
 23 **A Ninety-eight percent of the sewage work done**  
 24 **in Jackson Township I'm with the sewage officer so I know**  
 25 **what he does, but I wasn't privy to being involved with more**

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1 subsequent contractor drove over a test pit or something?  
 2 **A Well, from what I -- was conveyed by the**  
 3 **sewage officer and Terry Williams the area has been driven**  
 4 **on and filled. There's maintenance roads or construction**  
 5 **roads or something in that area.**  
 6 **Q Did they tell you there's no other suitable**  
 7 **test site for Mr. Corneal to install a septic system for a**  
 8 **house?**  
 9 **A No.**  
 10 **Q Did they tell you there is another suitable**  
 11 **test site?**  
 12 **A There's lots.**  
 13 **Q There's lots. Okay, thanks. Did you ever**  
 14 **tell Mr. Parks that you weren't going to issue Mr. Corneal**  
 15 **-- or you weren't going to approve Mr. Corneal's sewage**  
 16 **modules?**  
 17 **A I'm sorry?**  
 18 **Q Did you ever tell Mr. Parks that you weren't**  
 19 **going to approve Mr. Corneal's sewage modules despite the**  
 20 **fact that he'd approved them?**  
 21 **A I don't recall.**  
 22 **Q Did you ever discuss with Mr. Parks that he**  
 23 **shouldn't issue a sewage permit because you weren't going to**  
 24 **approve -- the board of supervisors wasn't going to approve**  
 25 **the sewage module?**

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1 **work at Corneals. That's why I wanted to make sure.**  
 2 **Q Oh, I see. So initially you had been doing**  
 3 **the work on the Corneal property, but then Mr. Corneal got**  
 4 **somebody else to do the property --**  
 5 **A Yes.**  
 6 **Q To do the work?**  
 7 **A Yes.**  
 8 **Q Do you know why Mr. Corneal got somebody else**  
 9 **to do the work?**  
 10 **A Well, I assume it was because I didn't get his**  
 11 **road done.**  
 12 **Q So you felt that nobody else could really work**  
 13 **with the sewage officer appropriately on Mr. Corneal's**  
 14 **property but you?**  
 15 **A Well, I'll tell you something, he wouldn't**  
 16 **have the trouble he has now if he had a competent**  
 17 **contractor. The first thing you do when you go in there**  
 18 **with equipment is you rope the area off that says sewage on**  
 19 **it so nobody can get on it. That's the first thing you do.**  
 20 **That's how he lost it. They drove over it.**  
 21 **But experienced contractors know this because**  
 22 **they've dealt with sewage officers that have had these**  
 23 **rejections before. You can't -- you can't work that area.**  
 24 **That's a -- that's a sacred area.**  
 25 **Q So is it your testimony that Mr. Corneal's**

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1 **A I don't recall.**  
 2 **Q Did you ever discuss the board's refusal to**  
 3 **sign Mr. Corneal's sewage module with Mr. Parks at all?**  
 4 **A I don't recall.**  
 5 **Q Did you ever discuss the board's refusal to**  
 6 **sign the sewage module with anybody else?**  
 7 **A No.**  
 8 **Q How about with Larry Newton?**  
 9 **A No.**  
 10 **Q Has the board ever approved any other**  
 11 **applications for privy permits?**  
 12 **A Yes.**  
 13 **Q How many, do you recall?**  
 14 **A I don't know.**  
 15 **Q Do you think you do one or two a year, more?**  
 16 **A I don't know.**  
 17 **Q What's your understanding of why the sewage**  
 18 **enforcement officer wouldn't issue Mr. Corneal a privy**  
 19 **permit?**  
 20 **A I -- I don't know. I assume that there was**  
 21 **concern of water.**  
 22 **Q Are you aware of whether or not the Corneals**  
 23 **sought the issuance of a privy permit just so that they**  
 24 **could build -- finish their art studio and have something up**  
 25 **there to use while they were up there? Do you know anything**

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1 about that?  
2 A No.  
3 Q Did you ever instruct anybody not to issue a  
4 privy permit no matter what Mr. Corneal asked for it for?  
5 A No.  
6 Q How long was your conversation with Mr. Parks  
7 when you called him and said you do your job?  
8 A I don't know. I don't know.  
9 Q What did Mr. Parks say back to you?  
10 A Okay.  
11 Q He said okay?  
12 A Yeah.  
13 Q Do you know whether anybody else called Mr.  
14 Parks in connection with the privy permit or the request for  
15 a privy permit?  
16 A I don't know.  
17 Q How did the privy permit come to your  
18 attention? Did Mr. Corneal come into the township  
19 supervisors and ask for it initially?  
20 A I -- I believe the meeting that he was at --  
21 the last meeting he was at he asked for a privy permit.  
22 Q Is that the meeting in April 2000?  
23 A I believe.  
24 Q So was it after that meeting that you called  
25 Barry Parks and told him to do his job?

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1 requires those. So we had to update our ordinance to get  
2 some uniformity in the regulation of the township concerning  
3 the maintenance of these privies and holding tanks.  
4 BY MS. MONTGOMERY:  
5 Q Well, let me just clarify now. Mr. Parks is  
6 the one who issues privy permits, right?  
7 A Yes.  
8 Q My question is: Did you ever find it  
9 necessary to contact Mr. Parks personally about anybody  
10 else's request for a privy permit?  
11 A No.  
12 Q Now, after that time that you talked to Mr.  
13 Van Dommelen on the telephone when he called you because Mr.  
14 Corneal had come out and asked for an application for a  
15 building permit, have you talked to Mr. Van Dommelen since  
16 then in any conversation, in any telephone discussion,  
17 chance meeting, formal meeting, any way whatsoever about Mr.  
18 Corneal's property?  
19 A No.  
20 Q Has he contacted you to ask you any questions  
21 about it?  
22 A No.  
23 Q Has he contacted the township supervisors  
24 generally?  
25 A Not unless there's a question with the

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1 A It would have to have been, yes.  
2 Q Was it that night?  
3 A I don't recall.  
4 Q Well, isn't it -- I mean, did you understand  
5 that Mr. Corneal was asking you for a privy permit because  
6 you wouldn't sign the sewage modules?  
7 A Yes.  
8 Q So he was just looking for something so he  
9 could use his property, correct?  
10 A Yeah.  
11 Q And you said no? You told Mr. Parks to say  
12 no, right?  
13 A I told Mr. Parks to do his job.  
14 MR. SHERR: Object to the form.  
15 BY MS. MONTGOMERY:  
16 Q Did you ever interfere or oversee Mr. Parks in  
17 his work in connection with anybody else's requests for a  
18 privy permit?  
19 MR. SHERR: Object to the form of the  
20 question. It assumes facts not in evidence. You can  
21 answer.  
22 THE WITNESS: I don't know how many privy  
23 permits have been issued in Jackson Township. We deal with  
24 them all the time because of the camps, the hunting lodges,  
25 the fishing lodges that are back in the mountain. DEP

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1 regulations.  
2 Q What do you mean by that?  
3 A Something that he doesn't understand with the  
4 regulation to issue a permit and -- and you just said permit  
5 -- no, I'm sorry, you said application.  
6 Q Yes.  
7 A When the phone call came in, it was to give  
8 Mr. Corneal a building permit. Nothing was said about an  
9 application.  
10 Q But Mr. Corneal didn't have an application;  
11 isn't that correct?  
12 A He could have -- he should have been issued an  
13 application.  
14 Q Do you know who Mr. Corneal has to go to for  
15 an application?  
16 A Yeah, Dave Van Dommelen.  
17 Q Do you think it would be appropriate for Mr.  
18 Van Dommelen to say no, I'm not going to give you an  
19 application?  
20 A That wouldn't be appropriate, but we're doing  
21 a play on words here. You're talking about a permit.  
22 Q But he can't --  
23 A He can't have --  
24 Q He can't get a permit without an application,  
25 correct?



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1 A Right, but I never heard anything about  
 2 application, all I heard was permit.  
 3 Q But you told him not to -- you told Mr. Van  
 4 Dommelen not to issue him a permit, correct?  
 5 A Correct.  
 6 Q Does that mean Mr. Van Dommelen should have  
 7 said no, you can't even have an application?  
 8 A I don't know what -- what he would do in that  
 9 situation.  
 10 Q Well, would it have been right for him to say  
 11 no, I'm not even going to give you an application?  
 12 A No.  
 13 Q Do you hire Mr. Van Dommelen? Is it the  
 14 township supervisors who --  
 15 A The township board of supervisors hires him.  
 16 Q So you're his boss?  
 17 A One of them, yes.  
 18 Q So as his boss you think it wouldn't be  
 19 appropriate for him to refuse to just give the application,  
 20 correct?  
 21 A I don't know. Something seems strange.  
 22 Q What seems strange?  
 23 A Well, there's this -- I got a call about a  
 24 permit and you're talking about the application. He should  
 25 -- an application should be issued to anybody and then it's

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1 -- then it's checked out. If it conforms with the  
 2 regulations, then the permit is issued.  
 3 Q Is this the first time that you ever heard  
 4 that Mr. Van Dommelen refused to give an application to Mr.  
 5 Corneal?  
 6 A Today?  
 7 Q Yes.  
 8 A Yes.  
 9 Q This is the first time you ever heard it?  
 10 A Application. That was the keyword, right?  
 11 Q Yes.  
 12 A Yes, okay.  
 13 Q Did you say you read the complaint in this  
 14 matter?  
 15 A Huh?  
 16 Q Did you say you read the complaint in this  
 17 matter, in this lawsuit?  
 18 MR. SHERR: Do you understand what a complaint  
 19 -- what she's talking about?  
 20 THE WITNESS: The July -- the July 4th  
 21 delivery? I've read it a couple times and I -- honestly I  
 22 can't tell you what it says, I'm sorry.  
 23 BY MS. MONTGOMERY:  
 24 Q It's the document that you keep sitting on  
 25 your freezer and keep looking at?

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1 A On my freezer and I keep glancing at it every  
 2 time I go back the hall, yeah.  
 3 MS. MONTGOMERY: I'm going to take just a  
 4 three minute break here with my colleagues and I think we  
 5 may be finished with you, but we'll check it out and get  
 6 right back to you.  
 7 (Break taken at 2:27 p.m. until 2:32 p.m.)  
 8 BY MS. MONTGOMERY:  
 9 Q Mr. Wilson, I'm just going to take you through  
 10 a few documents that have already been marked at prior  
 11 depositions. The first has been marked Wirth 4. It's the  
 12 July 10, 2000 minutes, I believe, and I'll let you look at  
 13 them and tell me if you recognize those minutes.  
 14 A That looks correct.  
 15 Q So those minutes reflect that it was on July  
 16 10, 2000 at the board of supervisor's meeting that you  
 17 passed your subdivision and land development ordinance for  
 18 Jackson Township, correct?  
 19 A Plus the others, yes.  
 20 Q Plus the other ordinances?  
 21 A Yes.  
 22 Q The driveway ordinance and which other one?  
 23 A Holding tank and privy.  
 24 Q Thank you. Now I'm going to show you a  
 25 document that has been marked as Wirth Exhibit 3 in the past

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1 and ask you to look at that. Look at it and then tell me  
 2 whether you've seen that document before.  
 3 A No.  
 4 Q You have not seen it before?  
 5 A No.  
 6 Q Well, I'm going to represent to you -- well,  
 7 actually ask you to look at it and tell me what it is. Now  
 8 that you're looking at it, do you know what it is?  
 9 A Well, it says it's an application for a  
 10 building permit.  
 11 Q By whom?  
 12 A There's no signature on it.  
 13 Q Is it filled out, in any event?  
 14 A Yes.  
 15 Q Who's it filled out by, does it look like?  
 16 A I don't know.  
 17 Q Let me see it, please. When you say that it's  
 18 not signed, what's that on the bottom left-hand -- bottom  
 19 right-hand corner?  
 20 A Well, that's not signed where the permit  
 21 officer is supposed to sign. I don't know what that is.  
 22 That's -- it looks like Mrs. Corneal's signature.  
 23 Q Mrs. Corneal or Mr. Corneal?  
 24 A Well, I don't know. I can make out Corneal.  
 25 It looks like Sandy or Sandra or something, Y.

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1 Q What's the date on the application?  
 2 A **8/31/00.**  
 3 Q At the time that -- around August 31, 2000 did  
 4 you become aware that the Corneals had submitted  
 5 applications for building permits on their property?  
 6 A **I don't remember.**  
 7 Q I'm going to show you another document that  
 8 has been marked as Wirth Exhibit 14 and ask you to look at  
 9 that. There's a series of documents attached there.  
 10 (Pause.)  
 11 BY MS. MONTGOMERY:  
 12 Q You've finished reviewing Wirth Exhibit 14,  
 13 correct?  
 14 A **Yes.**  
 15 Q Do you recall seeing those documents in the  
 16 past?  
 17 A **No.**  
 18 Q Now, the cover letters that are part of that  
 19 Wirth Exhibit 14 are addressed to the township, correct?  
 20 A **Yes.**  
 21 Q Do you normally get documents addressed to the  
 22 township passed on to you once Miss Wirth gets them?  
 23 A **Not unless there's a problem.**  
 24 Q Did anybody tell you that the Corneals had  
 25 submitted applications for building permits for their

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1 property on the date of those letters -- around the time of  
 2 the date of the letters which is 8/31/2000?  
 3 A **I don't remember that date.**  
 4 Q It's accurate, isn't it, that those  
 5 applications for building permits are for a garage, an art  
 6 studio and a house, correct?  
 7 A **Yes.**  
 8 Q Do you know how those building applications --  
 9 or those applications for building permits were handled,  
 10 treated?  
 11 A **No, I don't.**  
 12 Q Do you know what the result was of the  
 13 applications?  
 14 A **I don't know that either.**  
 15 Q Were they granted?  
 16 A **I don't know if Terry has them or not.**  
 17 Q I show you a document --  
 18 A **See, I'm -- I'm trying to keep between what**  
 19 **Terry has been doing and what we're doing now and I'm -- I**  
 20 **hope I'm okay -- I'm doing okay. I tried to explain.**  
 21 Q This is quite a long time before Terry was  
 22 doing anything so let's try and take -- stick with this time  
 23 frame. I want to show you a document that has been marked  
 24 Wirth Exhibit 13.  
 25 MR. SHERR: I don't know if that

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1 representation you made is true but --  
 2 MS. MONTGOMERY: What's that?  
 3 MR. SHERR: I don't think that representation  
 4 you made is true. I think he was involved at least in the  
 5 fall of 2000, which would have been --  
 6 MS. MONTGOMERY: August 31, 2000 is the fall?  
 7 THE WITNESS: Yes.  
 8 MR. SHERR: It's pretty much ...  
 9 BY MS. MONTGOMERY:  
 10 Q Have you seen that document before, what's  
 11 been previously marked as Wirth 13?  
 12 A **No.**  
 13 Q What is that document?  
 14 A **Well, it looks like a letter to the Corneals**  
 15 **from Dave Van Dommelen.**  
 16 Q And what does it do?  
 17 A **Denies the application.**  
 18 Q Denies their building permit applications?  
 19 A **Their applications have been denied,**  
 20 **applications.**  
 21 Q Now, I note that this letter was written on  
 22 Jackson Township Board of Supervisor's letterhead, correct?  
 23 Does Mr. Van Dommelen have Jackson Township Board of  
 24 Supervisor's letterhead?  
 25 A **He should have.**

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1 Q Does he type his own letters, do you know?  
 2 A **I think so.**  
 3 Q Do you know -- he types them himself? He  
 4 actually gets on the computer or typewriter or something and  
 5 types it himself?  
 6 A **I believe so.**  
 7 Q Let me show you another document that's been  
 8 marked as Wirth 12 in the past. Have you seen that document  
 9 in the past?  
 10 A **No, until I got to the meeting.**  
 11 Q What is that document?  
 12 A **It's an appeal.**  
 13 Q Request for appeal?  
 14 A **For a hearing for -- by the permits ordinance**  
 15 **and I believe that was one of the meetings held in the**  
 16 **Huntingdon County Courthouse to get things together or it**  
 17 **was generated from that with Terry.**  
 18 Q So building appeal -- this is an appeal of the  
 19 denial of the building permit, right?  
 20 A **That's what it says.**  
 21 Q And this is signed by Terry Williams?  
 22 A **Yes.**  
 23 Q So is it your recollection that this is about  
 24 the time Terry Williams got involved in this matter?  
 25 A **Apparently.**

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1 Q That's November 10, 2000, correct?  
 2 A I'm -- yeah, I'm -- if my memory serves me  
 3 right, I think it was earlier than that. I -- because we  
 4 were supposed to have all this work cleaned up, everything  
 5 -- he said he wanted to have everything of Corneals in  
 6 order by the end of December and we didn't make that. So  
 7 we've had another hearing -- well, anyhow.  
 8 Q Well, in any event, have you ever had an  
 9 appeal of a refusal of a building permit in Jackson  
 10 Township?  
 11 A I'm not aware.  
 12 Q Do you know of any building permits that have  
 13 been denied in Jackson Township?  
 14 A I don't know.  
 15 Q Now, do you understand this to be a request  
 16 for a hearing on an appeal of the building permit -- a  
 17 denial of the building permit, right?  
 18 A Yes.  
 19 Q Was there ever a hearing conducted on this  
 20 appeal?  
 21 A I don't know.  
 22 Q Did you contact Larry Newton about this  
 23 request for an appeal of the denial of Mr. Corneal's  
 24 application for a building permit?  
 25 A I don't recall.

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1 Q You mentioned something about a meeting in the  
 2 courthouse up in Huntingdon County. When was that meeting?  
 3 A I'm trying to get the date on that. The first  
 4 time I think it was Terry and Larry corresponded to set this  
 5 up but -- to get this thing moving.  
 6 Q Well, was that after the township sued the  
 7 Corneals in Huntingdon County Court?  
 8 A Yes.  
 9 Q So any meeting that you had in the Huntingdon  
 10 County Court offices or the courthouse didn't have anything  
 11 to do with their request for an appeal of their denial of  
 12 the application for building permits, did it?  
 13 A I don't know. All I -- all I can remember is  
 14 that Attorney Williams made several requests to try to get  
 15 these things altogether to get the Corneal land improvement  
 16 gone and completed and I -- I don't -- I just don't know the  
 17 dates.  
 18 Q Was that after say Christmas of 2000?  
 19 A It was before Christmas of 2000.  
 20 Q Did you bring an action against Mr. Corneal  
 21 after he requested an appeal of the denial of his  
 22 application for a building permit?  
 23 A I don't know the time frame there.  
 24 Q But just so we're clear, the township  
 25 supervisors did not actually get together and schedule a

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1 hearing to hear Mr. Corneal's appeal of the denial of his  
 2 application for a building permit, correct?  
 3 A As far as I know. I was never a party to  
 4 that.  
 5 Q Is it your understanding that it is the  
 6 township supervisors who would hear that appeal?  
 7 A Yes.  
 8 Q Do you ever recall Mr. Van Dommelen referring  
 9 to Mr. Corneal as a trouble-making yuppy from over the  
 10 mountain?  
 11 A I -- the first I knew about that was in the  
 12 complaint or on one of the -- one of the papers. I seen it  
 13 written down. It was the first I had seen that.  
 14 Q Did you ever refer to Mr. Corneal in that  
 15 fashion?  
 16 A I hope I'm a better person than that. Mr. --  
 17 even though Mr. Corneal and I don't talk much anymore, I  
 18 think we're still both gentlemen enough to talk to each  
 19 other.  
 20 MS. MONTGOMERY: I don't have any other  
 21 questions for you right now.  
 22 MS. YANKANICH: I have a couple questions for  
 23 you.  
 24  
 25 CROSS-EXAMINATION

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1  
 2 BY MS. YANKANICH:  
 3 Q In case I haven't introduced myself, I am  
 4 Jennifer Yankanich and I represent Larry Newton.  
 5 My first question is: There were several  
 6 times that Mr. Corneal came before the Jackson County Board  
 7 of Supervisors, the first being to get his subdivision plan  
 8 approved by the board and then he came for a -- to get his  
 9 sewer modules approved and the privy permit and so forth.  
 10 Do you remember those times?  
 11 A Yes.  
 12 Q During any of those meetings did you ever  
 13 temporarily stop the meeting or adjourn those meetings and  
 14 call Larry Newton to ask his advice on how to proceed?  
 15 A I don't recall doing that.  
 16 Q Do you recall any of the other supervisors  
 17 possibly calling Mr. Newton and asking his advice?  
 18 A No.  
 19 Q Do you recall at any time with respect to Mr.  
 20 Corneal's property calling Larry Newton and asking him on  
 21 how to proceed with respect to Mr. Corneal?  
 22 A I called -- when I say I called -- it may not  
 23 have been me. The board of supervisors called Larry to get  
 24 proceedings started against Mr. Corneal, some action from  
 25 Jackson Township. We were being pushed this way and there

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1 were violations of things in Jackson Township and we wanted  
 2 to know what we had to do so -- to get that lawsuit going.

3 Q So that was at the end when the lawsuit was  
 4 initiated?

5 A Yes.

6 Q Before that you don't remember any times that  
 7 you called Larry Newton to seek advice regarding Mr.  
 8 Corneal?

9 A No, normally we don't -- unless there's a  
 10 potential problem at a meeting -- because we don't have any  
 11 money, okay. We don't have Larry come out unless we expect  
 12 some problems. We can't afford him.

13 Q Do you recall ever asking Miss Wirth, Ann  
 14 Wirth, to make any calls to Larry Newton with respect to Mr.  
 15 Corneal?

16 A I may have. I don't know. I just -- I don't  
 17 recall, but if I was tied up, it's possible that I did that,  
 18 you know, find out when I could see him or something like  
 19 that.

20 Q Would that be with respect to filing a lawsuit  
 21 against Mr. Corneal?

22 A Well, any problems that we have. I'm usually  
 23 out -- gone all day and I'll -- I think that's -- maybe I'm  
 24 wrong, but I think that's what secretaries do. You call  
 25 them and say would you set this up for me or, you know,

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1 the township supervisors?

2 A There could be. That could be. I can't -- I  
 3 can't think of an instance, but as I -- as I said, I -- I  
 4 think the supervisors utilize that lady to the fullest  
 5 extent when she's trying to run her own business and we  
 6 appreciate her services. And it could be seven, eight  
 7 o'clock at night till -- I have some things on my mind and  
 8 I'll call and say, you know, did you know this or did you  
 9 hear anything about this, things that happen in the township  
 10 to keep me -- sort of keep me informed of what's going on.  
 11 There's 816 people, it's tough.

12 Q Well, then the answer is it could be that Miss  
 13 Wirth sometimes calls Larry Newton and seeks advice on  
 14 behalf of the township supervisors?

15 A Yes, yes.

16 MS. YANKANICH: I have a follow-up if you're  
 17 finished.

#### 19 RECCROSS-EXAMINATION

21 BY MS. YANKANICH:

22 Q Does Ms. Wirth have the authority to make a  
 23 phone call to Mr. Newton on your behalf without asking --  
 24 without being directed by you or any of the other  
 25 supervisors?

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1 would you find out when I can talk to so and so and these  
 2 type of things.

3 Q But her role there would be to set up a  
 4 meeting between you and Mr. Newton, not to seek Mr. Newton's  
 5 advice?

6 A Right.

7 Q Is that correct?

8 A Right.

9 Q Is it customary after the board meetings, the  
 10 regular board meetings the first Monday of each month, to  
 11 inform Mr. Newton of what happened during the meeting?

12 A No.

13 MS. YANKANICH: I don't have any further  
 14 questions.

15 MR. SHERR: No questions.

16 MS. MONTGOMERY: I just have one follow-up  
 17 question.

#### 19 REDIRECT EXAMINATION

21 BY MS. MONTGOMERY:

22 Q Just to be sure that I understand your  
 23 testimony in response to Mr. Newton's counsel's inquiry  
 24 here, are there instances in which the secretary, Miss  
 25 Wirth, will call Larry Newton and seek advice on behalf of

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1 A No.

2 Q To your knowledge has there ever been an  
 3 instance that Ms. Wirth called Mr. Newton without being told  
 4 by you or one of the supervisors to do so with respect to  
 5 Mr. Corneal?

6 A Not that I know of.

7 Q So would you say that you're aware of any  
 8 conversations that Ms. Wirth has had with Mr. Newton  
 9 regarding Mr. Corneal?

10 A Any conversations between Larry's office and  
 11 the Jackson Township office would be available to the  
 12 supervisors.

13 Q How so?

14 A Written up or if we asked her to call in there  
 15 and find something out and then she would have a reply for  
 16 us, she would have it written down or say that, well, he  
 17 couldn't explain it all, you'll have to call him or go to  
 18 his office and those type of things.

19 Q Do you recall seeing any of these notes that  
 20 she made from a telephone call with Mr. Newton?

21 A No, she usually -- most of the time it's --  
 22 she'll call all supervisors and tell them what the  
 23 conversation was as soon as she's done. And with me it's  
 24 usually -- I'm usually the last one because I'm coming home  
 25 late in the evenings. So it's nothing for her at 8:30, nine

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1 o'clock to call and tell me this is what -- you know, the  
 2 information you wanted from Larry or something like that.

3 Q The phone calls that you're referring to,  
 4 would these be phone calls -- and I may have already asked  
 5 you this. In reference to the litigation that was filed  
 6 against Mr. Corneal?

7 A Township business.

8 Q Township business in general?

9 A Yes.

10 Q And my final question is do you have any  
 11 specific recollection of a phone call that you asked Ms.  
 12 Wirth to make to Mr. Newton regarding David Corneal and his  
 13 property before litigation was commenced?

14 A No.

15 MS. YANKANICH: I don't have anything  
 16 further.

17 MS. MONTGOMERY: Okay, thanks.  
 18 (The deposition was concluded at 2:54 p.m.)  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1  
 2 COUNTY OF DAUPHIN :  
 : SS

3 COMMONWEALTH OF PENNSYLVANIA :  
 4 I, Teresa K. Bear, Reporter-Notary Public,  
 5 authorized to administer oaths within and for the  
 6 Commonwealth of Pennsylvania and take depositions in the  
 7 trial of causes, do hereby certify that the foregoing is the  
 8 testimony of W. THOMAS WILSON.

9 I further certify that before the taking of  
 10 said deposition, the witness was duly sworn; that the  
 11 questions and answers were taken down stenographically by  
 12 the said Teresa K. Bear, a Reporter-Notary Public, approved  
 13 and agreed to, and afterwards reduced to typewriting under  
 14 the direction of the said Reporter.

15 I further certify that the proceedings and  
 16 evidence are contained fully and accurately to the best of  
 17 my ability in the notes taken by me on the within  
 18 deposition, and that this copy is a correct transcript of  
 19 the same.

20 In testimony whereof, I have hereunto  
 21 subscribed my hand this 31st day of May, 2001.  
 22  
 23

24 \_\_\_\_\_  
 Teresa K. Bear, Reporter  
 Notary Public  
 My commission expires  
 25 on April 13, 2003

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DEFENDANT'S  
EXHIBIT

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1                               IN THE UNITED STATES DISTRICT COURT  
2                               FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
3           DAVID B. CORNEAL AND SANDRA                               :  
4           Y. CORNEAL,   :  
5   PLAINTIFFS                               :  
6   VS   :  
7   NO.    1:CV-00-1192  
8           JACKSON TOWNSHIP, HUNTINGDON                               :  
9           COUNTY, PENNSYLVANIA, W. THOMAS                               :  
10          WILSON, INDIVIDUALLY AND IN                               :  
11          HIS OFFICIAL CAPACITY AS                                       :  
12          SUPERVISOR OF JACKSON TOWNSHIP,                               :  
13          MICHAEL YODER, INDIVIDUALLY AND                               :  
14          IN HIS OFFICIAL CAPACITY AS                                       :  
15          SUPERVISOR OF JACKSON TOWNSHIP,                               :  
16          RALPH WEILER, INDIVIDUALLY AND                               :  
17          IN HIS OFFICIAL CAPACITY AS                                       :  
18          SUPERVISOR OF JACKSON TOWNSHIP,                               :  
19          BARRY PARKS, INDIVIDUALLY AND                                       :  
20          IN HIS OFFICIAL CAPACITY AS                                       :  
21          SEWAGE ENFORCEMENT OFFICER OF                                       :  
22          JACKSON TOWNSHIP, DAVID VAN                                       :  
23          DOMMELEN, INDIVIDUALLY AND IN                                       :  
24          HIS OFFICIAL CAPACITY AS BUILDING:  
25          PERMIT OFFICER, ANN L. WIRTH,                                       :  
   INDIVIDUALLY AND IN HER OFFICIAL                               :  
   CAPACITY AS SECRETARY OF JACKSON                               :  
   TOWNSHIP, AND LARRY NEWTON,                               :  
   INDIVIDUALLY AND IN HIS OFFICIAL                               :  
   CAPACITY AS SOLICITOR TO JACKSON                               :  
   TOWNSHIP,   :  
   DEFENDANTS   :

18  
19                               DEPOSITION OF:   DAVID B. CORNEAL

20                               TAKEN BY:               DEFENDANTS

21                               BEFORE:               PATRICIA C. BARRETT,  
22   REPORTER - NOTARY PUBLIC

23                               DATE:               FEBRUARY 22, 2001, 10:45 A.M.

24                               PLACE:               ECKERT SEAMANS  
25   213 MARKET STREET, 8TH FLOOR  
   HARRISBURG, PENNSYLVANIA



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APPEARANCES:

ECKERT SEAMANS

BY: BRIDGET E. MONTGOMERY, ESQUIRE

CHARLES M. SUHR, ESQUIRE

FOR - PLAINTIFF

MAYERS, MENNIES & SHERR LLP

BY: ANTHONY R. SHERR, ESQUIRE

FOR - ALL DEFENDANTS EXCEPT NEWTON

METTE, EVANS & WOODSIDE

BY: KATHRYN LEASE SIMPSON, ESQUIRE

FOR - DEFENDANT LARRY NEWTON

THOMAS, THOMAS & HAFER, LLP

BY: MICHELE J. THORP, ESQUIRE

FOR - DEFENDANT RALPH WEILER

ALSO PRESENT:

SANDRA Y. CORNEAL

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that sealing, certification and filing are waived; and that all objections except as to the form of the question are reserved to the time of the trial.

DAVID B. CORNEAL, called as a witness, being sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SHERR:

Q Mr. Corneal, good morning.

A **Good morning.**

Q As you know, we are here today to take your deposition in a matter which is currently pending in the U.S. District Court for the Middle District of Pennsylvania, in which you and your wife have brought an action against Jackson Township, its supervisors and other individuals.

Have you ever had your deposition taken before?

A **I don't think so. I can't remember.**

Q I just want to go over a couple ground

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David B. Corneal

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By Ms. Simpson 144

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rules. I know that you are familiar with depositions, but just to go over a couple ground rules so we are sure of things.

You have been placed under oath, you are expected to answer truthfully. I ask that you wait until I am finished asking my question before giving your response. Likewise, I will try to wait until your response is completed before I ask you another question.

If you don't understand my question, please, ask me to clarify it. If you don't hear my question, please, ask me to repeat it. If you answer the question, we are going to assume that you both heard and understood the question.

You are represented here today by counsel, if you need to take to have a conference with your attorney, please, indicate that and we will accommodate it. If you need to take a break for any other reason, please, let us know that.

We are here today to take your deposition to find out your recollection in the events surrounding your complaint and the allegations within your complaint.

If you don't know something, please, let us know that, otherwise, give the response to the best of your knowledge. I ask that you give all your responses out loud orally, so that the court reporter can take it

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<p style="text-align: right;">6</p> <p>1 down. She can't take down nods of the head and that sort  2 of thing.  3 Did you review anything in preparation for  4 today's deposition?  5 A I looked at some of the documents, yes.  6 Q What documents did you look at?  7 A The complaint and some letters.  8 Q Do you know specially what letters you  9 looked at?  10 A No, it was about a week ago.  11 Q Anything else other than the complaint and  12 some letters?  13 A That I reviewed?  14 Q That you specifically reviewed in  15 preparation for today's deposition?  16 A No.  17 Q Other than any discussions which you had  18 with your attorneys, did you discuss today's deposition  19 with anyone?  20 A My wife.  21 Q Other than your wife, anybody else?  22 A No.  23 Q Are you currently taking any medications?  24 A 20 milligrams of Zestril for high blood  25 pressure.</p>	<p style="text-align: right;">8</p> <p>1 A Sandy Cornell.  2 Q She is in the room with us today?  3 A Yes.  4 Q How long have you been married?  5 A We were married in 1968.  6 Q What is the highest level of formal  7 education that you completed?  8 A I completed a law degree.  9 Q When was that?  10 A In 1973.  11 Q Where was that from?  12 A Stetson University College of Law.  13 Q Have you had any formal education since the  14 completion of your law degree in 1973?  15 A Not any more than continuing education  16 courses for the law.  17 Q Do you currently practice law?  18 A No.  19 Q When did you stop practicing?  20 A Say 4 or 5 years ago.  21 Q Are you currently employed?  22 A Yes.  23 Q How are you employed?  24 A I teach Business Law and Entrepreneurship at  25 Penn State University.</p>
<p style="text-align: right;">7</p> <p>1 Q Would that effect in any way your ability to  2 give testimony here today?  3 A I am not aware of it.  4 Q Is there any other reason that you are aware  5 of that you are somehow impeded from giving us the best  6 recollection that you can concerning the events  7 surrounding your complaint?  8 A Not that I am aware of.  9 Q Where do you currently reside?  10 A 5205 East Fairmount, F-A-I-R-M-O-U-N-T,  11 Avenue, State College, Pennsylvania.  12 Q How long have you resided there?  13 A Since 1983.  14 Q Who do you reside there with?  15 A My wife.  16 Q Anybody else?  17 A Our children, until they grew up and moved  18 out.  19 Q How many children do you have?  20 A Three.  21 Q They are all out of the house?  22 A Yes, they are all adults.  23 Q What is your social security number?  24 A 162-36-9300.  25 Q Your wife's full name?</p>	<p style="text-align: right;">9</p> <p>1 Q How long have you been teaching at Penn  2 State?  3 A Since I think 1982, approximately, I am not  4 sure of the exact date.  5 Q Have you been teaching both Business Law and  6 Entrepreneurship since 1982?  7 A Initially Business Law and then  8 Entrepreneurship that started a few years later.  9 Q What is your position at the university?  10 A Assistant professor.  11 Q Do you consider this a full-time position?  12 A They consider it a full-time position, they,  13 meaning Penn State.  14 Q Very briefly, Business Law is a broad  15 subject, obviously, what specifically do you teach about?  16 A I teach an undergraduate course, with an  17 introductory course to what law is all about.  18 Q Do you have a textbook for that course?  19 A No.  20 Q How about Entrepreneurship, what does that  21 entail?  22 A It entails starting your own business.  23 Q What do you teach specifically?  24 A Starting your own business and picking a  25 business organization, financing the business.</p>



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1 Q Is there a textbook for that course?  
 2 A No.  
 3 Q Are there written materials that are used in  
 4 either of these courses?  
 5 A Written materials? No, not really, I have  
 6 some handouts in one or two of the courses, but.  
 7 Q Are the students asked to read anything?  
 8 A No.  
 9 Q How many courses do you currently teach?  
 10 A Three.  
 11 Q What are the titles of those courses?  
 12 A Business Law 243, Business Administration  
 13 250 and Business Administration 497-A.  
 14 Q When you practiced law, were you a member of  
 15 the firm?  
 16 A I was a member of several firms during the  
 17 period I practiced law.  
 18 Q Most recently, what firm were you a member  
 19 of?  
 20 A I was a sole practitioner.  
 21 Q Prior to that, were you a member of the  
 22 firm?  
 23 A We had our own firm, three or four guys.  
 24 Q What was the name of that firm?  
 25 A Well, the last name would have Kalman,

12

1 partner and that was his specialty so he would handle --  
 2 it would be referred to him.  
 3 Q So you, yourself, wouldn't handle matters  
 4 dealing with land use, you would refer them to a partner  
 5 or to another attorney, is that correct?  
 6 A Right.  
 7 If it was a simple question that you heard  
 8 an answer to before or knew the answer to before, you  
 9 would answer it; but if it was more complicated, it would  
 10 be referred to somebody else that did that.  
 11 Q How about other areas of municipal law, did  
 12 you consider yourself to be practicing in other areas of  
 13 municipal law other than land use?  
 14 A As I said, I didn't really practice in land  
 15 use. I would say not, no.  
 16 Q Are you familiar with the Pennsylvania  
 17 Municipal Planning Code?  
 18 A I know of it.  
 19 Q When you say you know of it --  
 20 A I know it exists.  
 21 Q Other than knowing it exists, do you know  
 22 any of the details contained within it or the cases  
 23 decided thereunder, are you familiar with them?  
 24 A Well, the only thing that I -- no, the  
 25 answer would be basically not, except, I recently had

11

1 Corneal, Mason, I think Mason, that was the last name.  
 2 Q What type of law did you practice at the  
 3 time that you were practicing law?  
 4 A It was general, business mainly.  
 5 Q Did you consider yourself to have a  
 6 specialty?  
 7 A Not really. In a small town you really  
 8 can't. I would say the specialty was, if you had to say a  
 9 specialty, it was contract law, business-related  
 10 contracts.  
 11 Q Did you ever practice in the area of land  
 12 use?  
 13 A The only time I ever did that was a case of  
 14 a friend of mine that you were involved in and that was  
 15 Wesley Young.  
 16 Q It was the Young versus Harris Township  
 17 case?  
 18 A Right.  
 19 Q So would I be correct then in stating you  
 20 did not get involved with land use matters while you  
 21 practiced law, other than to the extent you got involved  
 22 with them in that Young case?  
 23 A I wouldn't say that. I had business clients  
 24 that had questions about land use; and generally at that  
 25 time that we would have done anything, Ron Lucas was a

13

1 discussions about the Naylor case, which affects things or  
 2 could affect things. Other than that, no, I have never  
 3 read the Municipal Planning Code.  
 4 Q In the discussion that you recently had  
 5 concerning the Naylor case --  
 6 MS. MONTGOMERY: Objection.  
 7 MR. SHERR: That is what I was going to get  
 8 to. Give me a chance.  
 9 BY MR. SHERR:  
 10 Q Did you have those discussions with anyone  
 11 other than your attorneys?  
 12 A No.  
 13 Q Other than your residence and the property  
 14 which forms the basis of the lawsuit that we are here  
 15 about today, do you own other properties?  
 16 A Yes.  
 17 Q How many other properties do you own?  
 18 A You would have to ask me -- it would be  
 19 easier to tell you where they are.  
 20 Q Do it that way then. Can you tell me what  
 21 other properties you own other than your residence and the  
 22 property that forms the basis of this lawsuit?  
 23 A I own a property at 1445 West College  
 24 Avenue, I own a property at -- my wife and I, when I say  
 25 I, my wife and I, I own a property at 1510 Martin Street.

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<p style="text-align: right;">14</p> <p>1 I own a property in -- outside Hershey,  2 Pennsylvania, which is in Lower -- I forget the name of  3 the Township. It is just a tract of land, but near  4 Hershey; and we own a property in Key West, Florida at 816  5 Eaton Street; I jointly own a property with my youngest  6 son at 822 Eaton Street, Key West. I think that is it.  7 Q Just taking these properties one at a time.  8 MS. MONTGOMERY: I am going to object. I  9 have given you some leeway, considered that this is a  10 discovery deposition, but what does that have to do with  11 this case? This is his personal information, I don't  12 think you are entitled to ask him about all this stuff.  13 MR. SHERR: One of the reasons I am going to  14 get into the other properties, I am not going to get into  15 them in great length, is to find out whether or not he has  16 been involved in developing other properties.  17 MS. MONTGOMERY: Ask him that question,  18 then.  19 MR. SHERR: I will.  20 MS. MONTGOMERY: Maybe it is an appropriate  21 question, maybe not, but it is beyond the scope of this  22 lawsuit for you to be asking him about his other business  23 affairs and that sort of thing, you have got to tie it in  24 and tie it in pretty quickly, or, you know.  25 BY MR. SHERR:</p>	<p style="text-align: right;">16</p> <p>1 Street, is there anything --  2 A It is an existing commercial building.  3 Q The question was: Is there anything on that  4 property and your answer was that you purchased it with a  5 building on that property?  6 A Right.  7 Q Did you ever go through any kind of approval  8 process with respect to a local authority on that  9 property?  10 A What do you mean, a local authority?  11 Q A municipality.  12 A Well, we put an addition on that property  13 and so we hired an engineering firm to do that; but it was  14 just a matter of expanding a building that was already  15 existing.  16 Q You indicated that you owned a property  17 outside of Hershey and I believe in giving your answer you  18 said it was a tract of land.  19 A 206 acres.  20 Q That is undeveloped?  21 A Right.  22 Q Have you made attempts to develop that land?  23 A No. I have made attempts to sell the land.  24 Q Is there a reason you haven't sold the land?  25 A I just put it on the market a month ago.</p>
<p style="text-align: right;">15</p> <p>1 Q The property at 1445 West College Avenue, is  2 that property developed?  3 A Commercial building.  4 Q When you purchased it, did you purchase it  5 with a commercial building on it?  6 A No.  7 Q The commercial building that is on it, did  8 you have to receive approval from any local authorities to  9 build that building on the property?  10 A I hired an architect.  11 Q I don't know if that was responsive to my  12 question.  13 My question was, did you have to get any  14 approval from any local authorities?  15 A Obviously, whenever you build a building,  16 you have to have approvals, the approvals were obtained by  17 the architect.  18 Q Judging by that answer, you had nothing to  19 do with obtaining the approvals other than hiring an  20 architect?  21 A No, of course, I discussed it with the  22 architect. It was in 1979, I don't remember exactly what  23 transpired between us or my involvement in that, I don't  24 remember.  25 Q How about the property at 1510 Martin</p>	<p style="text-align: right;">17</p> <p>1 Q When did you purchase it?  2 A A long time ago. It was probably somewhere  3 in the late '70s.  4 Q With respect to these three properties, you  5 indicated that you own them with your wife, is that  6 correct?  7 A Yes.  8 Q Do you have ownership interests in any other  9 properties, excluding the ones in Florida, with any other  10 entity?  11 A No, not that I can remember right now. I am  12 trying to think. I don't believe so, aside from the  13 properties we are talking about here. You said excluding  14 Florida, you also exclude the properties in Jackson  15 Township?  16 Q Yes.  17 A No.  18 Q Do you have any ownership interest in any  19 corporation or other business entity which owns property?  20 MS. MONTGOMERY: Objection, just way beyond  21 the scope of this lawsuit. This isn't hunting season on  22 his entire personal life and business life, this is a  23 lawsuit about Jackson Township property.  24 MR. SHERR: Are you instructing him not to  25 answer?</p>

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1 MS. MONTGOMERY: I am objecting to it and I  
 2 am asking you not to do this in this deposition, not to  
 3 make it contentious, asking him questions that don't have  
 4 anything to do with the lawsuit. If you can explain what  
 5 it has to do with the lawsuit, I will be reasonable about  
 6 it, I am very willing to do that.  
 7 MR. SHERR: Depending upon whether he owns  
 8 any other property and had made attempts to develop any  
 9 other property --  
 10 MS. MONTGOMERY: He said, no. He gave you  
 11 the answer to those questions.  
 12 MR. SHERR: He hasn't given me the answer to  
 13 this yet, so I don't know.  
 14 MS. MONTGOMERY: Like I said earlier, this  
 15 may be marginally somehow likely to lead to developing  
 16 discoverable evidence that he may have developed other  
 17 property. Ask him that question and stay out of his  
 18 private business affairs, otherwise, that don't have  
 19 anything to do with the development of Jackson Township  
 20 BY MR. SHERR:  
 21 Q If you could answer my question.  
 22 A **The question was?**  
 23 Q Do you have an ownership in any corporation  
 24 or other entity which owns property?  
 25 A **Other than Florida you said, is that right?**

19

1 Q Yes, I am only interested -- to limit this,  
 2 I am only interested in properties in Pennsylvania and  
 3 your attempts to develop or be involved with developments  
 4 in Pennsylvania.  
 5 A **No.**  
 6 **Let me rephrase it. No, not that I can**  
 7 **recall. As you asked the question, I can't think of**  
 8 **anything at this moment that I have an interest in.**  
 9 **We have several corporations that operate**  
 10 **the properties that are identified, they don't own the**  
 11 **properties.**  
 12 Q Other than the property which forms the  
 13 basis of this lawsuit and excluding properties outside of  
 14 this Commonwealth and other than what you have already  
 15 talked about, have you been involved in the development of  
 16 any other properties?  
 17 A **We had a property in Boalsburg that we had**  
 18 **the engineer subdivide and we sold that off.**  
 19 Q Again, excluding the property that forms the  
 20 basis of this lawsuit, have you ever personally applied  
 21 with any local municipality for building permits?  
 22 A **Well, you have to apply. Obviously, the**  
 23 **owner of the property has to sign the application, so the**  
 24 **applications were normally prepared by the engineer or**  
 25 **architect and, obviously, the owner signed them, which**

20

1 **would have been myself and my wife.**  
 2 Q What I am searching for here is involvement  
 3 by you other than just signing it, where you actually went  
 4 to the Township or other municipality and had involvement  
 5 with the local officials, are there any instances like  
 6 that?  
 7 A **I have been in townships before, I mean the**  
 8 **borough, where we were -- in our home we were building a**  
 9 **fence around an area and we needed to get approval for**  
 10 **that.**  
 11 **I probably accompanied an architect or**  
 12 **engineer on these two properties that I identified**  
 13 **previously to a Township meeting or two; but like I said,**  
 14 **that was a long time ago.**  
 15 Q Have you ever been the party to a lawsuit  
 16 other than this one?  
 17 A **I want to say, yes, and I am trying to think**  
 18 **of what it was. You said other than this one. For**  
 19 **example, I just got served by Old Guard Insurance, who is**  
 20 **representing one of the supervisors who is asking for a**  
 21 **declaratory judgment as to whether they have coverage or**  
 22 **not.**  
 23 **You mean in Pennsylvania, parties to a**  
 24 **lawsuit?**  
 25 Q We could limit it to Pennsylvania -- no,

21

1 let's just expand that to any lawsuit.  
 2 A **Well, we have had a family fight in Florida**  
 3 **over some properties and that ended up in litigation.**  
 4 Q That litigation was in Florida?  
 5 A **Yes. That family fight then got extended**  
 6 **here in Pennsylvania, just slightly.**  
 7 Q Was there a lawsuit in Pennsylvania?  
 8 A **There was a lawsuit regarding my mother's**  
 9 **will.**  
 10 Q Any other lawsuits to which you were a party  
 11 other than what you have mentioned?  
 12 A **Not that I can remember.**  
 13 Q Turning to the property which forms the  
 14 basis of this lawsuit which is located in Jackson  
 15 Township. This property was purchased jointly, you and  
 16 your wife?  
 17 A **Yes.**  
 18 Q When did you purchase the property?  
 19 A **I believe it was around October of '98.**  
 20 Q How much did you purchase it for?  
 21 A **\$160,000. Total price was actually**  
 22 **\$170,000, but 10 was attributable to personal property.**  
 23 Q Who did you purchase it from?  
 24 A **Paul and Catherine Michael.**  
 25 Q How did you first hear about the property?

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1 A They were friends of mine and indicated they  
2 were going to sell what they referred to as their farm.  
3 Q What was your purpose for purchasing the  
4 property?  
5 A I was thinking that it would be a nice  
6 place, my wife and I were both artists at that point and  
7 still are, and it would be a nice place maybe to do  
8 painting and put perhaps a summer house on it or something  
9 like that.  
10 Q At the time that you were considering  
11 purchasing the property, did you have any other purposes  
12 for the property in mind other than to do some painting  
13 and to put a summer home on it?  
14 A Other purposes at that moment?  
15 Q At the time that you were considering  
16 purchasing the property.  
17 A Obviously, I was looking at a 95 acre tract  
18 of ground and I didn't think I needed all of that.  
19 Q I am not sure that that is really responsive  
20 though.  
21 Were you thinking about doing anything else  
22 with the property when you were considering purchasing it,  
23 other than using it as a nice place to paint and as a  
24 summer home?  
25 A Well, as I said, we didn't need 95 acres,

23

1 and it was naturally divided by a power line; and so  
2 without having investigated it, certainly the thought ran  
3 through my mind that perhaps I would sell off a piece of  
4 it or two or even divide it up for lots for my children. I  
5 didn't have any real plan, there was a lot of things that  
6 were possible.  
7 Q Do you recall what the asking price for the  
8 property was?  
9 A I paid them what their asking price was.  
10 Q So there was no negotiations over the price?  
11 A No negotiations. I thought it was a fair  
12 price.  
13 Q How did you make that determination that it  
14 was a fair price?  
15 A They gave me an appraisal that they had  
16 done.  
17 Q Do you still have that appraisal?  
18 A I will say probably, somewhere in the file.  
19 Q Do you know what Paul and Catherine Michael  
20 used this property for?  
21 A They had their children living there at  
22 different times and they used it as a weekend retreat for  
23 themselves.  
24 (Recess.)  
25 BY MR. SHERR:

24

1 Q Other than reviewing the appraisal, which  
2 was provided to you by the Michaels, did you do any other  
3 investigation prior to purchasing the property?  
4 A Aside from walking on the property, that is  
5 all I did.  
6 Q Were there any structures on the property  
7 when you were considering purchasing it?  
8 A A house and a barn.  
9 Q Did the property consist of one solitary lot  
10 to your knowledge at the time that you were considering  
11 purchasing it?  
12 A One tract of ground.  
13 Q Were you aware as to whether there were any  
14 attempts to subdivide the property prior to you purchasing  
15 it?  
16 A Well, I was aware that -- no, there was no  
17 attempts to subdivide it. I was aware that a single lot  
18 had been subdivided off by a previous owner, but I don't  
19 know who that owner was.  
20 Q The single lot which had been subdivided off  
21 of the property, was that still part of the property that  
22 you were going to purchase or had that been sold already?  
23 A That was developed into a homesite years  
24 ago.  
25 Q Were you aware that a lot had been

25

1 subdivided off of this tract of ground prior to your  
2 purchase?  
3 A Yes, sure.  
4 Q How did you become aware?  
5 A It was obvious, there was somebody living  
6 there with their three or four unused cars in the yard.  
7 Q How did you know that that was part of the  
8 same tract of land?  
9 A Because it was obvious that it was cornered  
10 out; and somebody told me, I don't remember whether the  
11 Michaels told me or somebody, it was rather are obvious.  
12 Q Other than walking the property and  
13 reviewing the appraisal, did you do anything else, any  
14 other investigation into the property prior to purchasing  
15 it?  
16 A No.  
17 Q Was there a real estate broker and/or agent  
18 involved with the sale to you of this property?  
19 A No.  
20 Q Were you represented in the sale of this  
21 property?  
22 A Was I represented?  
23 Q Yes.  
24 A No.  
25 Q Were the Michaels represented?

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1 A No.  
 2 Q Did you sign an agreement of sale?  
 3 A Yes.  
 4 Q Do you still have a copy of that agreement  
 5 of sale?  
 6 A I don't remember if I have it or not,  
 7 probably somewhere.  
 8 Q Did the agreement of sale have any  
 9 conditions in it?  
 10 A What kind of conditions?  
 11 Q Any conditions?  
 12 A No conditions.  
 13 Q Did the agreement of sale provide for  
 14 anything other than you would be purchasing the property  
 15 and the Michaels would be selling the property?  
 16 A Not really, no. There was a tractor  
 17 involved. That is why I said part -- it was a John Deer  
 18 tractor involved. Prorated taxes and the typical things  
 19 that we do with properties.  
 20 Q You indicated that you purchased this  
 21 property in October of '98, is that when you closed on the  
 22 property?  
 23 A Yes.  
 24 Q Had you ever purchased property in Jackson  
 25 Township prior to October of '98?

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1 A No.  
 2 Q Had you ever had any dealings with Jackson  
 3 Township officials and/or employees prior to October of  
 4 '98?  
 5 A I don't believe so, I can't remember ever  
 6 having.  
 7 Q Prior to purchasing the property in October  
 8 of '98, did you personally know W. Thomas Wilson?  
 9 A No.  
 10 Q Prior to purchasing the property, had you  
 11 had any prior dealings with Huntingdon County?  
 12 A Well, I don't know what you mean prior  
 13 dealings.  
 14 Before I went to law school, I went over and  
 15 I clerked for James Himes and his father, who was the  
 16 judge, Swirls Himes, but that was back in 1969, '68. Of  
 17 course, I am sure over the years every once in a great  
 18 while I was in Huntingdon County on some minor law thing  
 19 but I don't think very often. Most of the time if I had  
 20 something over there, I referred it to Jim Himes.  
 21 Q After you purchased the property in October  
 22 of '98, did you take any actions with respect to the  
 23 property?  
 24 A What do you mean actions?  
 25 Q Well, let's break that down, that was not a

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1 very good question.  
 2 When did you first decide to subdivide the  
 3 property?  
 4 A As I said, I contemplated that the  
 5 possibility was there at the beginning, because we didn't  
 6 really want the house and the barn. So probably in the  
 7 spring of the year, 1999, we started seriously thinking  
 8 about that. I am just guessing, a ballpark.  
 9 Q So am I accurate in stating that prior to  
 10 purchasing the property or at or around the time that you  
 11 purchased the property, you intended to build something on  
 12 the property?  
 13 A Yes.  
 14 Q Was that before you purchased the property?  
 15 A That we contemplated building?  
 16 Q Yes.  
 17 A Yes.  
 18 Q What did you contemplate building?  
 19 A As I said, we are both artists, and we were  
 20 thinking of a summer home and an art studio.  
 21 This was a vague thought at that time, it  
 22 wasn't a plan.  
 23 Q When did it become more than a vague thought  
 24 and moved into a plan?  
 25 A In the spring of '99 we started thinking

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1 seriously about recovering some of our investment and  
 2 using that money to build something.  
 3 Q The thoughts about recovering some of your  
 4 investment and building something with that money is the  
 5 contemplation that you would subdivide and sell part of  
 6 the property off?  
 7 A Yes.  
 8 Q What is the first action that you took with  
 9 respect to selling part of the property?  
 10 A Well, we decided that it needed a survey,  
 11 current survey.  
 12 Q Prior to getting a current survey, did you  
 13 personally do any research with respect to what you needed  
 14 to do to sell part of the property off?  
 15 A No, that is part of the discussion I had  
 16 with the surveyor.  
 17 Q So who was the surveyor that you had a  
 18 discussion with?  
 19 A David Simpson.  
 20 Q How was it that you got Mr. Simpson?  
 21 A Because Michaels had used him before.  
 22 Q So then you had a discussion with  
 23 Mr. Michaels about --  
 24 A No, some of the documents --  
 25 Q Let me finish the question.



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1 A Sorry.  
 2 Q Did you have a discussion with Mr. Michaels  
 3 about subdividing the property?  
 4 A No.  
 5 Q How was it then that you got to Mr. Simpson  
 6 through Mr. Michael?  
 7 A Mr. Michael had used Mr. Simpson before and  
 8 recommended him.  
 9 Q Do you know why he recommended Mr. Simpson  
 10 to you, he, being Mr. Michael?  
 11 A Obviously, he was pleased with Mr. Simpson's  
 12 work.  
 13 Q Do you know why he felt the need or even  
 14 wanted to recommend the surveyor to you?  
 15 A I don't know if I asked him or -- I don't  
 16 know. I know that he had -- when I bought the property,  
 17 he had given me documentation of things that related to  
 18 the property about planting trees and things that he had  
 19 -- and his tractor manual and all this other stuff. Part  
 20 of that was some work, survey work that Simpson had done.  
 21 I don't know if that is what stimulated Simpson or it was  
 22 a discussion with Michael.  
 23 Q Where is Mr. Simpson located?  
 24 A He lives in Huntingdon, outside of  
 25 Huntingdon.

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1 Q Do you recall when you first contacted  
 2 Mr. Simpson?  
 3 A As I said, sometime in the spring of '99 I  
 4 believe.  
 5 Q When you first contacted him, did you  
 6 indicate to Mr. Simpson why you were contacting him?  
 7 A Yes, I said I wanted him to survey the land  
 8 and I wanted to divide off the farm, the acreage. At that  
 9 time I was contemplating some lots for my children.  
 10 Q What did he tell you?  
 11 A He said, sure, he would be happy to do it.  
 12 Q Did you have a conversation with Mr. Simpson  
 13 at or around that time with respect to what would have to  
 14 be done to subdivide the property?  
 15 A Well, what he said was, if you are going to  
 16 subdivide it, you are going to need to find sewage  
 17 locations, on-site sewage.  
 18 Q Other than telling you that you needed to  
 19 find on-site sewage locations, did he tell you anything  
 20 else that you would need to do with respect to subdividing  
 21 the property?  
 22 A No.  
 23 Q Do you have an understanding as to why he  
 24 told you, you needed to find on-site sewage locations?  
 25 A Well, my understanding was that if you had a

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1 lot, you had to be able to provide on-site sewage for that  
 2 lot. So if I was going to divide something off, I needed  
 3 on-site sewage.  
 4 Q Did you have an understanding at that time  
 5 what required you to have on-site sewage on a lot?  
 6 A What do you mean?  
 7 Q What rule or regulation or statute?  
 8 A He said that the SEO, which is the sewage  
 9 enforcement officer, needed to do test pits at different  
 10 locations where we were contemplating lots.  
 11 Q Did you inquire as to why you had to have  
 12 areas where you could have on-site sewage on a particular  
 13 lot?  
 14 A Well, you can't build a house on a lot that  
 15 doesn't have on-site sewage.  
 16 Q You had that knowledge that you couldn't  
 17 build a house on a lot without on-site sewage?  
 18 A You had to have sewage disposal, either  
 19 public or on-site, and there was no public available, so  
 20 we had to have sites that were approved for on-site  
 21 sewage.  
 22 Q Again, did you have any understanding as to  
 23 where those requirements were contained, what required you  
 24 to have those on-site sewage on any particular lot?  
 25 A He said, DEP, Department of Environmental

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1 Protection, he told me had those regulations.  
 2 Q Did you have familiarity with those  
 3 regulations prior to this conversation with Mr. Simpson?  
 4 A No, I never had on-site septic on any  
 5 property I ever owned.  
 6 Q Did you make any inquiries at that time as  
 7 to the requirements of on-site sewage?  
 8 A He said that the SEO officer would be the  
 9 one that would meet me on the site or meet us on the site  
 10 and dig test pits and would decide whether the soil was  
 11 appropriate for on-site systems.  
 12 Q Prior to this time, this conversation with  
 13 Mr. Simpson, had you ever been involved in any way with  
 14 on-site sewage systems?  
 15 A No.  
 16 Q Did Mr. Simpson tell you who the sewage  
 17 enforcement officer was?  
 18 A Probably. I think he did.  
 19 Q Do you recall that he did?  
 20 A I would say that he probably told me who it  
 21 was. I don't remember, but I would suspect that that is  
 22 where the information came from.  
 23 Q Who did he tell you the sewage enforcement  
 24 officer was?  
 25 A Barry Parks.

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1 Q Other than finding sewage locations, did  
2 Mr. Simpson tell you, you would have to do anything else  
3 in order to divide the property and sell part of it?  
4 A **He said that we would submit those things,**  
5 **the sewage things to the Township.**  
6 Q Did he tell you why you would have to submit  
7 them to the Township?  
8 A **No, but that was the procedure.**  
9 Q He told you that was the procedure?  
10 A **That was the procedure that he used he said.**  
11 Q Did he indicate that he had other dealings  
12 with the Jackson Township officials with respect to  
13 dividing lots?  
14 A **Never talked to him about that.**  
15 Q Did you understand that you would have to be  
16 involved with the process or was it your understanding  
17 that Mr. Simpson would take care of this for you?  
18 A **No. He had indicated that he would do the**  
19 **drawings, but he didn't want to go to the meetings or do**  
20 **anything to walk things through, that I would have to do**  
21 **it.**  
22 Q Did he tell you about any other requirements  
23 for dividing property in Jackson Township, other than  
24 finding sewage locations?  
25 A **No. I say no, not that I recall, I can't**

1 function.

2 Q Did you make any inquiry to Mr. Simpson as  
3 to why you needed sewage modules?  
4 A **The answer was obvious, because the SEO had**  
5 **checked the sites and you needed DEP approval and my**  
6 **understanding was from Simpson, the sewer modules would be**  
7 **signed by the Township and then submitted to DEP for final**  
8 **approval.**  
9 Q Who contacted the SEO?  
10 A **Probably, I did. He had given me the guy's**  
11 **name, probably I did. He could have contracted him first,**  
12 **I don't know.**  
13 Q Do you recall contacting Mr. Parks?  
14 A **I know that I called Mr. Parks on several**  
15 **occasions. I can't remember if the initial contact was by**  
16 **myself or Mr. Simpson. I would suspect it was probably by**  
17 **me.**  
18 Q How did you get in touch with him? How did  
19 you learn how to get in touch with him?  
20 A **I don't remember. I would be guessing as to**  
21 **how it happened, I don't remember how it happened.**  
22 Q I don't want you to guess.  
23 Do you remember the first contact that you  
24 had with Mr. Parks?  
25 A **No. It was a telephone conversation, but I**

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35

1 **recall that he had said anything about that.**  
2 Q What was your understanding as to what  
3 Mr. Simpson would do for you?  
4 A **A survey.**  
5 Q Anything else?  
6 A **A boundary survey and then eventually divide**  
7 **things up into lots, whatever lots we decided on based on**  
8 **the SEO's finding of on-site septic suitability.**  
9 Q Other than doing a boundary survey and  
10 drawing up lots once you divided what lots you wanted, did  
11 you have expectations that Mr. Simpson was going to do  
12 anything else with respect to this property?  
13 A **I didn't have expectations, because I didn't**  
14 **know exactly what was required with on-site septic, but he**  
15 **did prepare the sewer modules, he called them sewer**  
16 **modules, for the SEO's findings that would fit with the**  
17 **map that he would prepare.**  
18 Q At what point did you learn that he was  
19 going to prepare sewage modules?  
20 A **I think when he prepared them.**  
21 Q Did you ask him to prepare sewage modules?  
22 A **I didn't know about sewage modules.**  
23 Q So then you didn't ask him to prepare them?  
24 A **No, I didn't; but he did it as I guess a**  
25 **standard operating procedure as what he did as part of his**

1 **don't remember it exactly.**

2 Q Do you recall telling Mr. Parks what you  
3 intended to do with the property?  
4 A **I said we were going to do some subdividing**  
5 **and needed to find suitable spaces for on-site septic.**  
6 Q The reason that you told him you needed to  
7 find suitable spaces for on-site septic was because Mr.  
8 Simpson told you, you needed that?  
9 A **Yes.**  
10 Q Did you contact anybody else other than  
11 Mr. Parks and Mr. Simpson with respect to these initials  
12 efforts to subdivide the property?  
13 A **Yes.**  
14 Q Who else did you contact?  
15 A **I contacted Eagle Construction and**  
16 **Mr. Wilson.**  
17 Q How was it that you came to contact Eagle  
18 Construction and Mr. Wilson?  
19 A **Well, it is a very small area over there and**  
20 **he had a construction site less than a half mile from the**  
21 **site. And I don't know if Simpson recommended him or**  
22 **Parks recommended him; but I knew I needed a backhoe, so**  
23 **he was the guy with a backhoe nearby.**  
24 Q Would you have any records and/or document  
25 which would reflect who referred you to Mr. Wilson and

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1 Eagle Construction?  
 2 A No.  
 3 Q Who initially contacted Eagle Construction  
 4 and/or Mr. Wilson?  
 5 A I would suspect I did.  
 6 Q Do you recall when it was that you contacted  
 7 Mr. Wilson?  
 8 A It would have been probably the late spring,  
 9 early summer of '99.  
 10 Q Was this a phone conversation, your first  
 11 contact?  
 12 A I don't know.  
 13 Q Can you tell me the gist of this first  
 14 contact that you had with Mr. Wilson?  
 15 A I said we wanted to do some work on the  
 16 property and whether he would be available to provide that  
 17 work.  
 18 Q What did he indicate?  
 19 A Sure.  
 20 Q When did you become aware that Mr. Wilson  
 21 was a supervisor in Jackson Township?  
 22 A I don't think it was until a month or two  
 23 later.  
 24 Q How did you become aware?  
 25 A I think he told me.

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1 Q Do you recall in the context of what  
 2 conversation you were having at the time that he told you?  
 3 A We were on-site, and I don't know, it came  
 4 up that he was a supervisor at Jackson Township.  
 5 Q Do you recall Mr. Wilson telling you that  
 6 there was going to be a moratorium on development in  
 7 Jackson Township?  
 8 A Absolutely not.  
 9 Q So it is your testimony that Mr. Wilson  
 10 never told you that there was going to be a moratorium on  
 11 development in Jackson Township?  
 12 A Absolutely not.  
 13 Q What is your testimony then?  
 14 A My testimony is that. I said he absolutely  
 15 did not tell me that.  
 16 Q Just so we are clear, I believe you may have  
 17 misheard me or something. My question to you was: Is it  
 18 your testimony that Mr. Wilson did not tell you about a  
 19 moratorium on development in Jackson Township?  
 20 A That is absolutely correct. He did not tell  
 21 me about a moratorium or any proposed moratoriums in  
 22 Jackson Township.  
 23 Q Did Mr. Wilson tell you that Jackson  
 24 Township was working on a subdivision ordinance?  
 25 A No.

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1 Q Did you enter into a written agreement with  
 2 Mr. Simpson?  
 3 A I don't believe so.  
 4 Q Did you enter into a written agreement with  
 5 Mr. Wilson?  
 6 A No.  
 7 Q Did you enter into a written agreement with  
 8 Eagle Construction?  
 9 A No, not that I can recall. I don't  
 10 remember, I think it was -- when outside contractors give  
 11 you prices and you say, okay, go ahead, that was, I think  
 12 -- I don't remember anything in writing about it, about a  
 13 contract.  
 14 Q What was it that you hired Mr. Wilson and  
 15 Eagle Construction to do?  
 16 A Well, initially there was some debris that I  
 17 wanted him to remove from the property where some farmers  
 18 had thrown stuff over a hill into a gully. That never  
 19 came about, he never completed that task.  
 20 Q Why not?  
 21 A I don't know, but he didn't get to it and we  
 22 kind of ignored that after awhile.  
 23 Then I hired him really to send a backhoe in  
 24 to dig the test pits with the SEO and myself present.  
 25 Q Did he operate the backhoe?

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1 A No.  
 2 Q Who was operating the backhoe?  
 3 A I believe that it was his nephew; but I  
 4 don't know the man's name, I don't recall his name.  
 5 Q When was this done?  
 6 A It was done probably the summer, sometime  
 7 in the summer of '99, I don't recall exactly when.  
 8 Q Was anybody else present, other than  
 9 Mr. Parks, who is the SEO, yourself, and the backhoe  
 10 operator at the time you were digging these test pits?  
 11 A Not that I know of, not that I recall.  
 12 Q Who made the determination where the test  
 13 pits would be dug?  
 14 A It was kind of a combination of Simpson and  
 15 I, because what we were contemplating subdividing, the  
 16 lots, kind of dictated where you try to find on-site  
 17 septic.  
 18 Q At the time that you were digging test pits,  
 19 how many lots did you contemplate you would be dividing  
 20 the property into?  
 21 A I think that it was five or six, because we  
 22 had the farmhouse and barn and three lots, one for each of  
 23 our children, the residue for ourselves and another lot  
 24 along the road. That was all tentative.  
 25 Q What was the result to your knowledge of

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1 these test pits?  
 2 A Well, we did, I don't know, I forget how  
 3 many we dug; but we ended up with five or six approved  
 4 sites.  
 5 Q Were there any records indicating how many  
 6 test pits were dug and how many sites were approved?  
 7 A Well, there is a record of all the sites  
 8 that were approved and the Township has that and so do you  
 9 on the sewer modules.  
 10 Q Is there any record of sites which were not  
 11 approved?  
 12 A Not that I know of. You dug a hole, and if  
 13 it didn't look good, then you covered it up and moved on.  
 14 There is no point of making a record of one that didn't  
 15 pass.  
 16 Q Were you present the entire time that the  
 17 test pits were being dug?  
 18 A I think I was present for all of them,  
 19 except one. I think I was called away on the property for  
 20 something when one was dug and came back when they were  
 21 still there after the fact.  
 22 Q Who were you called away by?  
 23 A I don't know, I don't remember.  
 24 Q What were you called away to do?  
 25 A I don't know, I don't remember. I just

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1 remember I went away and then I came back and they had  
 2 already dug the test pit, so I wasn't present when they  
 3 dug that.  
 4 Q Prior to this time, had you ever witnessed  
 5 test pits being dug or anything to do with test pits?  
 6 A No.  
 7 Q Did you learn at the time you were on the  
 8 property and the test pits were being dug that these sites  
 9 were being approved or did you learn sometime thereafter?  
 10 A They are not approved when you dig a site  
 11 pit.  
 12 Q What happens?  
 13 A Well, they told me that once you found  
 14 suitable soil, then they had to come back and do a perk  
 15 test in those locations.  
 16 Q Who told you that?  
 17 A I think it may have been Wilson.  
 18 Q Was this during the original conversation  
 19 you had with Mr. Wilson or at some subsequent  
 20 conversation?  
 21 A No, it was probably a subsequent  
 22 conversation afterward, I don't recall exactly when that  
 23 took place.  
 24 Q How many conversations do you recall having  
 25 with Mr. Wilson prior to being out on the property and

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1 digging these test pits?  
 2 A I don't know, I don't recall how many. I  
 3 would be guessing if I gave you a number.  
 4 Q Was it more than five?  
 5 A No.  
 6 Q Who performed the perk tests?  
 7 A Wilson's crew did.  
 8 Q Were you present during the performance of  
 9 the perk tests?  
 10 A No.  
 11 Q Do you know when they were performed?  
 12 A No, I am not positive of when that was -- I  
 13 would say within, here again, I am guessing, estimating, 6  
 14 weeks of when we dug the -- 6 to 8 weeks from when we dug  
 15 the test pits.  
 16 Q Between the time that the test pits were dug  
 17 and the perk tests were performed, which you are  
 18 indicating about a 6 week period, did you do anything  
 19 else, you personally do anything else with respect to  
 20 subdividing the property?  
 21 A Well, we couldn't subdivide the property  
 22 until we knew whether a site had perked, so there was  
 23 nothing to do.  
 24 Q So your answer to my question was you did  
 25 nothing in the 6 weeks between when you dug the test pits

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1 and when the perk tests were done?  
 2 A I may have been -- again, it is speculation  
 3 -- talking to a builder friend of mine for design of an  
 4 art studio and a house; but at some point in there, that  
 5 would be the fall of '99, this started to evolve.  
 6 Q Who would this builder friend have been?  
 7 A McClintic.  
 8 Q That is the name of an individual or a  
 9 company?  
 10 A It is an individual, Max McClintic.  
 11 Q Where is Mr. McClintic located?  
 12 A He is in State College, Pennsylvania.  
 13 Q Was it your intent at the time that you had  
 14 conversations with him to have him build the structure  
 15 that you contemplated on the property?  
 16 A It was my intention that he would help  
 17 design it and help build it. His brother, Fred McClintic,  
 18 actually had the construction crew.  
 19 Q Did you enter into a written contract with  
 20 Max McClintic with respect to the design of the building?  
 21 A No, Max and I have always operated on a  
 22 handshake.  
 23 Q How about with his brother with respect to  
 24 building it, did you enter into a contract?  
 25 A We entered in a contract where he agreed --

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1 Q Did you enter into a written contract?  
 2 A No.  
 3 Q What contract did you enter into with the  
 4 builder?  
 5 A **The time and material, construction and that**  
 6 **we set aside or he set aside the -- as soon as the weather**  
 7 **broke in the year 2000, that he would begin construction**  
 8 **on a garage, an art studio and a house.**  
 9 Q Anything else that you recall doing toward  
 10 developing the property or building on the property during  
 11 this 6 week period between when the test pits were done  
 12 and the perk tests?  
 13 A **Well, we had put the -- we had put feelers**  
 14 **out for the house and -- see, the house and barn already**  
 15 **had a sewage system existing, so we didn't need to worry**  
 16 **about whether we perked or probed there. So we put**  
 17 **feelers out to find a buyer for about a little less than**  
 18 **26 acres and the house and the barn.**  
 19 Q How did you determine what acreage you would  
 20 sell with the house and barn?  
 21 A **Because of Simpson's survey; and as I said,**  
 22 **there is a main power line going down through the property**  
 23 **and it acted as a natural divider.**  
 24 Q Did Simpson do a survey?  
 25 A Yes.

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1 Q When did he do the survey?  
 2 A **That spring and summer.**  
 3 Q The spring and summer of '99?  
 4 A Yes.  
 5 Q Do you still have that survey?  
 6 A **A copy of that survey was provided to you.**  
 7 Q Did you take any other action, I am just  
 8 going to limit it to the 6 week period --  
 9 A **You are calling it 6 weeks, I said, 6 to 8**  
 10 **weeks, I don't remember.**  
 11 Q Whatever that period was, that is why I am  
 12 relating it to the test pits being dug and the perk tests  
 13 being performed, whatever time period that was,  
 14 understanding that we don't have the exact time period;  
 15 but did you take any other action toward developing  
 16 building on the property and/or subdividing the property?  
 17 A **Well, we started to look at the**  
 18 **possibility -- we had to get a road back to where we**  
 19 **wanted to build and it was already a base road back there**  
 20 **but it crossed the stream.**  
 21 Q How did it cross the stream?  
 22 A **It didn't, it came to the stream and it**  
 23 **would have had to cross the stream to get to the property**  
 24 **where we were going to build or the land that we were**  
 25 **going to build on, so Max McClintic was exploring getting**

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1 **a permit. I am not sure from whom, Forest and Waters or**  
 2 **somebody, for a stream crossing, for a bridge.**  
 3 Q He was exploring the permit at your behest?  
 4 A Yes.  
 5 Q Did you tell him specifically to get a  
 6 permit or did you just tell him that you wanted this road  
 7 and do what is necessary, how did that work?  
 8 A **Well, I never got a permit to cross the**  
 9 **stream, so he was exploring what it took. He is the kind**  
 10 **of guy that just takes charge and before I knew it, he had**  
 11 **applied for a permit and gotten it.**  
 12 Q Who did he apply with --  
 13 A **As I said, I don't remember if it was Forest**  
 14 **and Waters or -- I forget the people that issue -- the**  
 15 **Township has a copy of the permit that was a copy of the**  
 16 **permit that was issued by whatever department was required**  
 17 **for a bridge to be put across the stream.**  
 18 Q When you said there was already a base road,  
 19 what do you mean by that, what is --  
 20 A **There was already an obvious cartway that**  
 21 **went all the way back into the woods, through the woods,**  
 22 **to the stream.**  
 23 Q Was this cartway being used in any fashion  
 24 to service either the barn or existing house?  
 25 A No.

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1 Q Was there any roadway being used or any on  
 2 the property?  
 3 A **The house and the barn were already right**  
 4 **along the paved road.**  
 5 Q They had access to the paved road how?  
 6 A **Right there it was -- the house was within**  
 7 **20 feet of the paved road and the barn was 20 feet from**  
 8 **the -- all there was in front of the house and the paved**  
 9 **road was a parking space, they didn't even have a**  
 10 **driveway.**  
 11 Q This cartway that you are referring to, was  
 12 that a dirt cartway?  
 13 A **It was a shale, shale dirt cartway.**  
 14 Q Was it graveled in any way?  
 15 A **Well, obviously, it had been kept up by**  
 16 **somebody, probably the Michaels, I don't know, because**  
 17 **there weren't any trees growing in it or anything else.**  
 18 **In fact, it had even been mowed.**  
 19 **During that period of time I also was**  
 20 **talking to Wilson about coming in and shaleing, putting a**  
 21 **new coating of shale on that road to bring it up to a**  
 22 **better standard for our driveway.**  
 23 Q You were talking to Mr. Wilson about doing  
 24 the work to put the shale on there?  
 25 A Yes.

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1 Q And was this during the period of time that  
2 we are talking about between --  
3 A Well, was it during the 8 week period of  
4 time, I am not sure. It was in the fall of 1999 when all  
5 this was talking place.  
6 Q You said you put out feelers about selling  
7 the existing structures and 26 acres. What do you mean by  
8 that?  
9 A Well, I just let it be known to people that  
10 I was -- I told Simpson I would like to sell this off. I  
11 told other people that may have an interest.  
12 Q Who else did you tell beside Simpson that  
13 you can recall?  
14 A I don't remember. If I had a friend in  
15 State College that said, oh, gee, I would like to be out  
16 in that area, I would tell him that I was going to sell  
17 off 26 acres and the house and the barn.  
18 Q Did you have a price in mind at the time  
19 that you were putting these feelers out as to what you  
20 wanted to sell the house and the barn and the 26 acres  
21 for?  
22 A I had asked several realtor friends of mine  
23 what they thought something like that would go for.  
24 Q Do you recall who you asked?  
25 A Probably Pat Brewer and a fellow by the name

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1 of Scott Yocum.  
2 Q Specifically, you asked them what?  
3 A What they thought a house and a barn and 26  
4 acres would sell for.  
5 Q Would sell for where? Did you tell them  
6 where?  
7 A Yes, in Huntingdon County.  
8 Q Just in Huntingdon County?  
9 A No, I told them where the property was,  
10 Yocum had sold property over in that area before.  
11 Q What did these relators tell you with  
12 respect to what it would sell for?  
13 A They indicated, I don't remember exactly,  
14 anywhere from 125 to \$175,000, if it was somebody looking  
15 with horses or something like that.  
16 Q Did you contract with any realtor to sell  
17 the property?  
18 A No.  
19 Q Why not?  
20 A Because I didn't want to.  
21 Q Did you do anything else to, in your terms,  
22 put out feelers to sell the property other than what we  
23 have discussed?  
24 A No, because before I got it I got a call  
25 from the Hewetts who had somehow heard through the

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1 grapevine that this property was for sale.  
2 MR. SHERR: Off the record.  
3 (Lunch recess.)  
4 BY MR. SHERR:  
5 Q We are back on the record. Mr. Corneal, we  
6 left off, you had indicated that you got a call from the  
7 Hewetts, who had heard through the grapevine about the  
8 property. Do you recall that testimony?  
9 A Yes.  
10 Q Where did they call you?  
11 A Well, when I said the grapevine, I meant the  
12 grapevine in the area down there and the grapevine  
13 specifically, they told me that Tom Wilson had told them  
14 that I was interested in selling a piece of ground. And I  
15 believe since Tom had my number at the office, I think  
16 that is where they called me, at the office.  
17 Q Had you prior to hearing from the Hewetts,  
18 discussed with Mr. Wilson selling the parcel containing  
19 the barn and the house?  
20 A Yes, in fact, he had expressed an interest  
21 in buying it himself.  
22 It so happens that this property that I  
23 bought from Michaels was the old Wilson farm, which was  
24 his grandfather's farm, and he stated to me that he would  
25 love to have a place to go with his grandchildren and he

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1 would be interested in personally buying the 26 acres.  
2 Q Did he specifically reference the 26 acres  
3 during this conversation?  
4 A Well, I said, I told him that I was selling  
5 off the house and the barn and approximately 25, 26 acres,  
6 something around that, so yes, that is what he anticipated  
7 it was going to be on the market.  
8 Q Did you have this conversation with  
9 Mr. Wilson concerning selling the house and the barn  
10 before or after the test pits were dug?  
11 A Well, it was during, because we had a number  
12 of discussions at that time of what was necessary to do  
13 and what the Township through its SEO required.  
14 As I said before, he told me he was a  
15 supervisor. So at that time I quizzed him on what it was  
16 necessary to do and he made a joke, he says, well, in this  
17 Township we even permit privies, inferring that it was  
18 wide open.  
19 Q Just so I am clear about time, and the only  
20 reason I am asking this, the conversation that you had  
21 with Mr. Wilson about purchasing the property when he  
22 referenced to you that it was the old Wilson farm --  
23 A The old Wilson farm.  
24 Q -- was that before or after the test pits  
25 were dug?

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1 A I would suspect that it was either at the  
2 same time or before. Because I brought him on and we were  
3 discussing a number of things. Remember the first time I  
4 said I talked to him, we talked about cleaning up some  
5 debris that had been thrown over and as we are going  
6 through this area of the farm he is talking about, oh,  
7 yeah, this was an old logging road. When I was a kid,  
8 there was a sawmill back here. So he was giving me a  
9 history on this thing.

10 I can't really pinpoint whether it was right  
11 at the same time we were doing the test, but obviously, it  
12 relates to what I was hiring him for. So we had already  
13 done the test pits, I am not sure.

14 It was right around that time, probably  
15 within a week of two of either prior or after the test  
16 pits, or it could have been days prior to the test pits.

17 Q Is it your testimony that you are aware that  
18 Mr. Wilson was a Township supervisor at or around the time  
19 that the test pits were dug?

20 A He had told me, yes.

21 Q You indicated he didn't tell you during the  
22 first conversation you had with him, it was some  
23 subsequent conversation, right?

24 A As I said, I can't remember exactly what the  
25 substance of each conversation was. I said at some point

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1 requirements with respect to on-lot sewage, did you have  
2 any discussions with Mr. Wilson about any other Township  
3 or county requirements for dividing the land?

4 A When you say discussions about dividing the  
5 land.

6 Q Subdividing the land?

7 A Or subdividing the land, the situation was  
8 that there was no subdivision requirements and code. He  
9 said, you can build whatever you want, there is no code,  
10 there is no building code, there is no subdivision. I  
11 think that was in the same conversation, he said, you can  
12 have a privy, if you wanted one, in this Township.

13 Q So we are clear, is it your testimony that  
14 Mr. Wilson told you at sometime before the test pits were  
15 dug and I am using that just as a reference point, that  
16 there was no subdivision requirements in the Township?

17 A Well, you are asking me, again, to identify  
18 a specific time. It may have occurred the day we were  
19 digging the pits or it may have occurred the day before we  
20 were digging the pits.

21 I know that I delivered to his office a copy  
22 of a rough map from Simpson showing proposed lots that we  
23 were going to do and whether the conversation took place  
24 at that moment, because we were, obviously, discussing  
25 subdivision, or it took place later on, I am not sure.

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1 it became apparent that he was a supervisor, he told me he  
2 was a supervisor. Then we had discussion, whether it was  
3 the same time as the discussion about him buying the  
4 property or not buying it, I don't recall exactly.

5 It was kind of like we were establishing --  
6 I felt that I was trying to establish a rapport with some  
7 local people. So it was just a chatty, number of chatty  
8 conversations about things.

9 Q What is it that you recall him telling you  
10 about the Township requirements with respect to the sewage  
11 enforcement.

12 A As I said, he joked, and he said, we even  
13 permit privies here, which is an outdoor toilet, an  
14 outhouse. The reference was that it was unusual that they  
15 were -- I don't want to say that he didn't say they were  
16 backward, but that is, obviously, what I interpreted from  
17 it. All you had to do was do the tests and if you passed,  
18 you had no problem. I mean the log tests and the perk  
19 tests.

20 Q Is it your belief based on your  
21 conversations with Mr. Wilson that he was aware before the  
22 test pits were dug that you were intending to subdivide  
23 the property?

24 A No question about it.

25 Q Other than discussions about the

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1 Q Are you sure that he told you that there  
2 were no subdivision requirements in the Township?

3 A Absolutely.

4 Let me add to that. He said there was no  
5 subdivision requirements, but we had to have the SEO's  
6 approval on these locations, which then had to be  
7 submitted to the Township. So it wasn't that you could --  
8 you, obviously, needed the on-site septic approval from  
9 the SEO that the Township then had to sign, that then got  
10 forwarded on to DEP and that is what he had told me needed  
11 to be done; so to that extent, the Township was involved.

12 Q Did you discuss or did you have any  
13 discussions with anybody concerning your discussions with  
14 Mr. Wilson and what the Township required or didn't  
15 require?

16 A Yes, I am sure I discussed that with Max  
17 McClintic. I may have said something to my wife, I can't  
18 recall, because Max was doing the drawings for our home  
19 and art studio.

20 Q Did your discuss your conversations with  
21 Mr. Wilson concerning what the Township would require or  
22 wouldn't require with Mr. Simpson?

23 A I think Mr. Simpson already knew what the  
24 Township required and didn't require, because as I said,  
25 he was doing the sewer modules and he is the one that



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1 recommended that I needed to get the pits done and the SEO  
 2 involved.

3 Q My question was, did you discuss your  
 4 conversation that you had with Wilson with Simpson?

5 A Did I specifically discuss Wilson's  
 6 conversation, I most likely did; but I can't say that I  
 7 did. I don't know, that is the answer to the question, I  
 8 don't remember whether I did or not. I could have and I  
 9 would have to ask Mr. Simpson if. . .

10 Q Other than what you have already testified  
 11 to occurred with respect to either your subdividing the  
 12 property and building on the property to the point where  
 13 the perk tests were done, can you remember anything else  
 14 happening with respect to either subdivision and/or  
 15 building on the property?

16 A Well, no.

17 It was my understanding from all these  
 18 conversations that I had with Simpson and with Wilson that  
 19 there was no problem in dividing off some pieces of ground  
 20 as long as they perked or we were able to get a sewage SEO  
 21 officer approval on the perk sites, that was the only  
 22 requirement that we had to develop and divide up this  
 23 land.

24 Q Once the perk tests were done, I believe you  
 25 testified that Mr. Simpson then did sewage models?

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1 talked to anybody else.

2 Wilson was my contact then and continued to  
 3 be, because I was going to have him do that road that was  
 4 going to be necessary -- what it really would be, would be  
 5 a driveway for the house, a long one, and he was going to  
 6 do the driveway for me. So my contact would have been  
 7 with him.

8 In those contacts, he never said anything to  
 9 me, well, we have a problem or you have a problem,  
 10 nothing, everything was hunkydory as far as I knew.

11 Q Did you have contact with Mr. Wilson after  
 12 the perk tests were done but prior to your going to the  
 13 February 2000 Township meeting?

14 A That is the time period I was talking  
 15 about. He and I were discussing getting the road in,  
 16 because we had discussions about permitting to get the  
 17 bridge across the stream. And I wanted to go ahead and  
 18 get the driveway in so that when we were ready to go  
 19 across the stream, that we could do it, because we had to  
 20 get construction vehicles back in the back end of the  
 21 property where we were going to do the construction. So I  
 22 discussed that with him, from that period of time when the  
 23 perk tests were done, up until February of the year 2000.

24 Q When were the perk tests done, do you know?

25 A In the fall of -- mid to late fall of '99.

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1 A Yes. I don't know if it was right then that  
 2 he did the sewer modules but eventually he did sewer  
 3 modules within a month or two or something like that.

4 Q At the time did you have any understanding  
 5 as to why sewage modules were necessary?

6 A Yes, that was the process upon which the SEO  
 7 approved in writing the sites that were found to have  
 8 passed and the Township would sign those modules and, in  
 9 fact, I paid them \$1400 and some cents for their SEO's  
 10 work on this thing and I had paid Wilson twice, once for  
 11 digging the pits and once for doing the perk tests.

12 Once that was done, then sewer modules were  
 13 done for the Township to sign. Barry Parks was presented  
 14 with those sewer modules, he signed them all. I took him  
 15 to a meeting of the Township and asked that they be signed  
 16 and the Township supervisor refused to sign them.

17 Q When did you take them to the Township?

18 A I believe it was the February meeting.

19 Q February of what year?

20 A The year 2000.

21 Q Up to that point, had you had any contact  
 22 either in writing or orally with anybody from the  
 23 Township, any official or employee of the Township other  
 24 than Mr. Parks and Mr. Wilson?

25 A No, just with Wilson. I don't think I

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1 Q Do you recall, Mr. Wilson telling you that  
 2 you should hurry and get your materials to the Township?

3 A No, he never said that. He never indicated  
 4 anything was wrong or anything was going to delay the  
 5 project that we were pursuing.

6 Q Getting back to the phone conversations with  
 7 the Hewetts, it is your belief that it was Mr. Wilson who  
 8 told the Hewetts that you were selling some of this  
 9 property?

10 A That is what I believe, as I recall, yes.

11 Q What else occurred during this phone  
 12 conversation?

13 A That they had a daylily business and they  
 14 were located in a dark area and they needed to get out  
 15 into the sunshine and get some open space and they were  
 16 looking for a place just like ours.

17 Q Did they indicate to you during that phone  
 18 conversation that they had been to the property?

19 A I don't remember if they had been or not, I  
 20 don't know.

21 Q Did you discuss at that point during this  
 22 initial phone conversation price?

23 A Yes.

24 Q What price did you discuss?

25 A \$150,000 -- actually, I discussed \$160,000,

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1 because that was the upper end of what my realtors had  
 2 told me or had estimated the property to go for and I was  
 3 looking to basically cash -- get my cash out of the  
 4 investment and invest that money in a house and then I  
 5 would have the rest of the land free and clear.

6 Q When you say investment, as I understand  
 7 your testimony, at the time that you purchased this  
 8 property, you weren't purchasing it for an investment,  
 9 were you?

10 A Oh, absolutely. Are you kidding me? I  
 11 never buy anything, unless it is an investment.

12 Q So it is now your testimony that --

13 A No, I haven't changed my testimony.

14 Q Let me finish and you can answer it anyway  
 15 you would like.

16 It is now your testimony that at the time  
 17 that you purchased the property, one of your purposes in  
 18 purchasing the property was to make money off of the  
 19 property?

20 A I never buy anything in real estate, unless  
 21 I am going to make money on the transaction. I always  
 22 look -- and my wife can attest to this and so can many  
 23 people that know me -- I never make -- I never buy  
 24 anything for the fun of it or for some recreational  
 25 purpose. I buy it with the anticipation of getting my

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1 away a lot of the character that drew a lot of people to  
 2 the State College market.

3 Right across the mountain, 20 minutes away,  
 4 was a piece of property that was ideal for -- I could just  
 5 see the State College market moving that way, and, in  
 6 fact, it was.

7 So I anticipated from day one that I would  
 8 make money on this property, as well as have the benefit  
 9 of having the property -- an art studio along the stream  
 10 and either a summer house or what ended up being a  
 11 permanent house.

12 MS. MONTGOMERY: Can I talk to my client for  
 13 one second?

14 MR. SHERR: No. If he wants to have a  
 15 conference with you, that is one thing.

16 MS. MONTGOMERY: All right.

17 A I want to have a conference with my  
 18 attorney.

19 (Discussion held off the record.)

20 (Answer read.)

21 A A summer house is actually what I said. It  
 22 ended up being a permanent house.

23 BY MR. SHERR:

24 Q My question was though, how did you know or  
 25 what did you base your belief that you would be able to

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1 money back somehow and then ending up with something.

2 In this case, I was willing to accept the  
 3 fact that I would have no money tied up in the balance of  
 4 the land that I really wanted, and that is how I always  
 5 invest.

6 Property is not -- I am not an affluent  
 7 person that I can afford to buy property and sit around on  
 8 it. It has got to make money or return my investment to  
 9 me or I have a problem with it, I always buy that way.

10 Q So it was your belief then from the time  
 11 that you purchased the property that you would be able to  
 12 subdivide it and recoup your purchase price?

13 A There was no reason to believe that I could  
 14 not subdivide it and recoup my money.

15 Q What I am asking you is you had a belief at  
 16 the time that you could do that?

17 A Yes.

18 Q Recoup your money?

19 A Yes.

20 Q What did you base that belief on?

21 A I bought a number of pieces of real estate  
 22 in the past and sold them.

23 I try to anticipate where the market is  
 24 going to be in the future. I anticipated that the market  
 25 with I-99 going into the State College area was taking

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1 subdivide the property on at the time that you purchased  
 2 it?

3 A It is not hard to subdivide land when there  
 4 is no subdivision ordinances.

5 Q Were you aware there were no subdivision  
 6 ordinances?

7 A Somebody had told me there was virtually  
 8 nothing over there. I don't remember whether it was one  
 9 of my realtor friends or -- I don't know who it was.

10 Q Just so we are clear on the record, it is  
 11 your testimony that at the time that you purchased the  
 12 property you were aware or you had a belief that there  
 13 were no subdivision ordinances in Jackson Township?

14 A I had a belief that that was the case. I  
 15 never checked directly with the Township about that.

16 Q Why didn't you check with the Township?

17 A Because it wasn't a compelling situation. I  
 18 didn't know how much dividing I was going to make or what  
 19 exactly I was going to do. I knew that it was a good buy  
 20 and I couldn't anticipate any problems.

21 Maybe it was Yocum that told me, because he  
 22 had sold some pieces over there and has represented to  
 23 people that it was easy to subdivide, because there were  
 24 no ordinances and no building codes and he is a  
 25 professional, I had no reason not to believe him.



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1 Q When you learned that you would have to have  
2 certification that lots were suitable for on-site sewage,  
3 were you surprised by that?  
4 A No, you have to have sewage disposal and  
5 most people that live in places like that don't have  
6 public sewer, so you would anticipate you have to have an  
7 on-site septic system. I certainly had heard of on-site  
8 septic before. And when I bought the property, the  
9 Michaels pointed out, here is our drain field for the  
10 on-site septic system for the house.  
11 Q Who pointed that out?  
12 A The Michaels, the people I bought the  
13 property from.  
14 Q Was that the first time that you become  
15 aware that there was on-site sewage at that property?  
16 A I guess so, but nobody in rural areas like  
17 that have public sewer. So in anticipation, if somebody  
18 asks me what kind of sewer is it, my guess would have been  
19 that it was on-site septic.  
20 Q But you never investigated that?  
21 A I didn't need to, because as I said,  
22 Michaels told me, which confirmed what was obvious.  
23 Q Prior to the Michaels telling you I guess is  
24 what we are trying to pinpoint now, you didn't do any  
25 investigation, whether there was on-site sewage for the

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1 property or whether it was served by any kind of public  
2 system, you did no investigation as far as that is  
3 concerned, right?  
4 A There was no need to, I hadn't agreed to buy  
5 the property yet.  
6 Q My question is, you didn't do that, isn't  
7 that correct?  
8 A My answer is there was no need to do that,  
9 that is correct.  
10 Q During your initial conversation with the  
11 Hewetts, did you tell them that you were in the process of  
12 dividing the property?  
13 A I said at that time we were investigating  
14 the division of the property and we anticipated that the  
15 easiest one to divide, because we knew it already had  
16 sewer and water on it, was the house and the barn and 26  
17 acres, a little less than 26, 25 point something.  
18 Q At the time that you had your initial  
19 conversation with the Hewetts, were you aware that  
20 somebody was living in the house?  
21 A There was no one living in the house.  
22 Q Was there a tenant for the property?  
23 A Not at that moment.  
24 Q At what point --  
25 A Excuse me, I beg your pardon. I have a

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1 person that worked for me living in the house at that  
2 time, yes, I did.  
3 Q Who was that?  
4 A Scott Page.  
5 Q In what capacity was he living in that  
6 house?  
7 A He was living in there without paying rent,  
8 because he was in financial difficulties and he was a very  
9 nice young man and he worked hard for us and we wanted to  
10 give him that as a fringe benefit to help him out.  
11 Q What work did he do for you?  
12 A He worked as a front desk receptionist at  
13 our business.  
14 Q Is that the health club?  
15 A Yes, the health club.  
16 Q Did you have any written agreement with him  
17 with respect to his living on the property?  
18 A No.  
19 Q Did you subsequently enter into an agreement  
20 with anybody with respect to leasing any of the property?  
21 A Subsequent to what?  
22 Q To Mr. Taige living on the property?  
23 A We have entered into an agreement in the  
24 summer or the fall of this year.  
25 Q With whom?

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1 A Kevin, I don't remember his last name.  
2 Q That agreement is in writing?  
3 A No -- you asked me if I had a written  
4 agreement, I did not. It is an oral lease on a 60-day  
5 basis that we entered into this fall with Kevin and his  
6 fiancée, I don't remember her name either, sorry.  
7 Q What are the terms of the 60-day lease?  
8 A They pay utilities and \$375 a month and  
9 maintain the property. I can give them 60 days notice for  
10 them to be out or they can give me 60 days notice that  
11 they want out.  
12 They were children of a friend of mine in  
13 State College that didn't have much money and were  
14 desperate to find a place to be on their own, because she  
15 is still at Lockhaven State and going to school and  
16 teaching and he works construction with one of the local  
17 construction companies.  
18 Q This started in the fall of 2000?  
19 A Fall of 2000, yes.  
20 Q Have they paid \$375 a month since the  
21 inception of the --  
22 A Yes, I think they have been there 5 or 6  
23 months, something like that.  
24 Q Getting back to the Hewetts and the phone  
25 conversation that you had. During this initial

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1 conversation that you had with them, did you discuss  
 2 anything else concerning the sale of the property other  
 3 than price?  
 4 A Well, we discussed Page living there, Mr.  
 5 Page, and we discussed the Hewetts having to sell their  
 6 house.  
 7 Q What did you discuss about Page living  
 8 there?  
 9 A Well, I said that we cared about this young  
 10 man, that we were trying to help him and the last thing we  
 11 wanted to do was throw him out and so that we wanted to  
 12 give him plenty of time to find something else or we were  
 13 going help him find something.  
 14 That was fine with them, because they had  
 15 started this daylily business and really weren't ready to  
 16 go into it full-time until the spring of 2000 and so we,  
 17 basically, had -- I think their contract was in October  
 18 and they had until -- they weren't anticipating needing to  
 19 move in there until the beginning of the summer, which  
 20 worked out fine for everybody or it seemed to work out  
 21 fine for everybody.  
 22 Q Did you enter into any agreement during this  
 23 initial conversation?  
 24 A No, there was a subsequent written  
 25 agreement.

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1 Q Was there any kind of agreement between you  
 2 and the Hewetts during this initial conversation that  
 3 either they would purchase the property or come out and  
 4 look at the property or that you would continue  
 5 negotiating, anything of that nature?  
 6 A No.  
 7 At the initial discussion they came out and  
 8 met me on the property. We went through the house and we  
 9 went through the barn and they looked at the land and took  
 10 a walk down along the stream and we discussed things.  
 11 Q What did you discuss?  
 12 A The contract or the proposed contract to  
 13 purchase.  
 14 Q Did they agree that at that point they  
 15 wanted to purchase the property?  
 16 A Yes -- well, at that point, they may have  
 17 called me that night or they may have called me the next  
 18 day; but as a result of that meeting, they elected to  
 19 purchase the property.  
 20 I had offered it at 160, they asked for 150  
 21 and I agreed to it.  
 22 Q Then you entered into a written agreement of  
 23 sale, correct?  
 24 A Right.  
 25 Q Who prepared the agreement of sale?

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1 A I did.  
 2 Q There were a number of conditions contained  
 3 within the agreement of sale, correct?  
 4 A Right.  
 5 Q The one condition, I will read it here,  
 6 states: Buyers acknowledge that a present tenant, Scott  
 7 Page, P-A-G-E, needs to be relocated by sellers to a  
 8 property they are constructing on another portion of the  
 9 farm and that they will be flexible in the settlement date  
 10 to accommodate this transition.  
 11 A Yes.  
 12 Q Do you acknowledge, and I can show it to  
 13 you, I don't have a copy.  
 14 A You don't have to show it to me.  
 15 Q You acknowledge that that was a condition on  
 16 the agreement of sale?  
 17 A Assuming you are reading it from the  
 18 agreement of sale, yes.  
 19 Q I will represent that I was reading that  
 20 from the agreement of sale.  
 21 A Okay.  
 22 Q What were you constructing on the property?  
 23 A Well, we were anticipating building the  
 24 house and the art studio and the garage.  
 25 Q That is where you anticipated relocating Mr.

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1 Page to?  
 2 A Well, at the same time there was another  
 3 possibility that -- I was talking to a neighbor called  
 4 Weaver and Weaver had indicated that he may be interested  
 5 in selling his property and he had a small cottage on that  
 6 property. So I was anticipating that Weaver, that if I  
 7 made a deal with Weaver, that Scott would move on to that  
 8 property.  
 9 Q So was your contemplation at the time that  
 10 you entered into the agreement of sale that that sale  
 11 would not be consummated until either you entered into a  
 12 separate agreement with Mr. Weaver or you completed  
 13 construction of another building on this property?  
 14 A No, that is not correct.  
 15 Q Why is that not correct?  
 16 A What was anticipated was that we weren't  
 17 going to move Mr. Page out into the cold without trying to  
 18 help him, because he was kind of a fragile individual  
 19 psychologically and we were trying to help him. The last  
 20 thing we wanted to do was cause him any problems.  
 21 So we were anticipating somehow finding  
 22 something, but it would not hold up this sale, we were  
 23 giving ourselves plenty of time to find something, even if  
 24 we had to find something in State College, it doesn't  
 25 really matter. But it was just, we wanted the Hewetts to

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1 know that we had a concern that we wanted taken care of  
 2 for this young man.

3 Q At the time that you drew up this agreement  
 4 of sale, you at least anticipated the possibility that  
 5 this sale may be delayed because of Mr. Page and where to  
 6 locate him, right?

7 A No, no.

8 Q Why did you include this condition in the  
 9 agreement of sale?

10 A We included it in there because we had a  
 11 discussion about it and we anticipated closing this deal  
 12 sometime in the spring of the year 2000. We gave  
 13 ourselves a line out there until the end of June; but  
 14 everybody anticipated that it was going to happen sooner  
 15 than June.

16 It was just a matter of we were just trying  
 17 to accommodate and the Hewetts were very accommodating in  
 18 that regard, they understood our concern about Mr. Page  
 19 and so we put language in like that, that is all, just so  
 20 there was an acknowledgment that everybody understood we  
 21 needed to take care of Mr. Page, that was one of our  
 22 concerns, but it certainly wouldn't have held up the sale.

23 Q You had in the agreement of sale that the  
 24 closing date would be June 30, 2000, right?

25 A Yes.

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1 Q As of the time that you entered into the  
 2 agreement of sale with the Hewetts, which I will represent  
 3 according to the agreement of sale states October 7, 1999,  
 4 had you had any dealings with any official or employee  
 5 from the Township other than Mr. Wilson and the SEO?

6 A I don't think so, not that I can recall.

7 Q Is the first time that you had any dealings  
 8 with any official or employee from the Township other than  
 9 Mr. Wilson and the SEO when you attended the Township  
 10 meeting in February of 2000?

11 A I believe that is correct, yes, I think so.  
 12 I am trying to think if I had called the Township  
 13 secretary about any questions or information. At this  
 14 moment I don't recall any conversations.

15 Q I am going to use as our time this February  
 16 2000 Township meeting that you attended, up to that point,  
 17 up to February of 2000, had you engaged anybody else to  
 18 perform any other services on the property other than  
 19 Mr. Wilson; Mr. Parks; Mr. Simpson; and the designer, Mr.  
 20 McClintic?

21 A I can't recall anybody that I would have  
 22 hired to do something at that particular time.

23 Q What did you take to the Township meeting of  
 24 February 2000?

25 A I took the map of the subdivision and I

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1 Q You also put in there that both you and the  
 2 Hewetts would be flexible on the closing date to make sure  
 3 that Mr. Page was being accommodated?

4 A Right. The point is that it was not going  
 5 to hold up the sale or the transfer of the property, it  
 6 was just we were trying to find him something as soon as  
 7 we could and the Hewetts were understanding of that and we  
 8 were going to work together but it certainly wouldn't have  
 9 held up the sale.

10 Q You also provided that you would use the  
 11 second floor of the barn in anticipation of the completion  
 12 of whatever you were going to build on the property?

13 A That's right. I had a bunch of wood,  
 14 timber, that I had cut off some other property and it was  
 15 being air dried, cherry, oak, maple and pine and we had  
 16 moved it out to the top floor of the barn.

17 It wasn't easy just to move it somewhere,  
 18 because it had to be inside. So I reserved the rights to  
 19 do this, because I didn't know how long it was going to  
 20 take us to construct things and to use up that wood.

21 We had an estimate of what it would take,  
 22 but we were giving ourselves plenty of leeway, after  
 23 discussions with the Hewetts, it probably won't be a year,  
 24 but I want the right just for 2 years just in case, just  
 25 trying to anticipate the worst case scenario.

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1 believe -- I think I took the sewer modules; but their  
 2 meeting is the first Monday of every month, and I may have  
 3 taken the sewer modules on the first Monday of March, if I  
 4 didn't take it on -- I would have to look at the date of  
 5 the sewer module, the signature that Parks had done.

6 Q Were you present when Parks signed the sewer  
 7 module --

8 A No, actually, they were delivered to his  
 9 wife, who works in State College, she took them home to  
 10 him and brought them back.

11 Q Brought them back to you?

12 A Yes, she did, she brought them -- I believe  
 13 she brought them back to me. Either she brought them back  
 14 or he mailed them to me; but I didn't deliver them to him  
 15 personally, his wife took them to him.

16 Q The map showing the lots and the sewer  
 17 modules, how many proposed lots were there?

18 A At that time there was three lots.

19 Q What were the three lots, if you can  
 20 describe them?

21 A We had the 20 -- we will call it the 26 acre  
 22 lot. Then there was a triangular piece of ground back in  
 23 the back, that abutted the 26 acre piece but on the other  
 24 side of the power line; and then there was the residue,  
 25 which was what we were going to build on. The smaller

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1 triangular pie shape, it was a pie-shaped lot, it was  
 2 about 4 and a half acres, something like that.  
 3 Q What did you intend to do with that lot?  
 4 A I was going to give it to one of my kids.  
 5 Q Other than taking the map to the Township  
 6 meeting and the sewer modules to the Township, did you  
 7 send the sewer modules anywhere else?  
 8 A Send it somewhere else?  
 9 Q Deliver it somewhere else or bring it  
 10 somewhere else?  
 11 A In what time are you talking about, when?  
 12 Q At or around the time that you brought it to  
 13 a Township meeting?  
 14 A I don't think so.  
 15 David Simpson delivered the things to me  
 16 done, we signed them in the owner's spot and we gave them  
 17 to Parks — I called Parks and Parks said give them to my  
 18 wife, it is easier, because she worked in State College,  
 19 so she brought them home and either she delivered them or  
 20 he mailed them to me, one of the two, and they were all  
 21 signed. Aside from that, no, I don't think they were  
 22 delivered to anyone else.  
 23 Q You don't recall, as I understand, whether  
 24 you brought them to the Township meeting, and we are  
 25 talking about the sewer module, the Township meeting in

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1 February of 2000 or March of 2000, right?  
 2 A Yes, you can easily determine that by the  
 3 date that Parks signed it.  
 4 If he signed it before the first Monday of  
 5 February, then it was taken in February; if he signed it  
 6 after the first Monday of February, then it was taken to  
 7 the March meeting.  
 8 Q But you recall that you were definitely at  
 9 the February 2000 meeting?  
 10 A Oh, yes.  
 11 Q Is that correct?  
 12 A Oh, yes.  
 13 Q What happened at that meeting?  
 14 A I had the plan, in fact, I had 3 or 4 copies  
 15 of the plan, which is what Simpson told me I needed. My  
 16 wife and I had signed it and it was notarized and I asked  
 17 the Township to sign it.  
 18 Q Why did you ask the Township to sign the  
 19 plan?  
 20 A Because that is what I was told had to be  
 21 done.  
 22 Q Who told you that?  
 23 A I think it was Simpson that said take it —  
 24 it was either Simpson or Wilson that said you have got to  
 25 take the plan — Wilson that told me to take the plan to

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1 the Township or bring it to the supervisor's meeting for  
 2 our signature.  
 3 Q What happened at the meeting?  
 4 A They said, no, we are not going to sign this  
 5 plan.  
 6 Q Who said that?  
 7 A One of the supervisors.  
 8 Q Do you remember which one?  
 9 A No, I think it was whoever the chairman was,  
 10 but I am not sure which one of the fellows that was.  
 11 Q Did they say why they weren't going to sign  
 12 it?  
 13 A Yes, they said we have a moratorium in  
 14 effect on subdivisions and we are not signing any plan.  
 15 Then they also went on to say, you are doing  
 16 this wrong anyhow, it has to be submitted to the County  
 17 Planning Commission first.  
 18 Q Do you remember who said that?  
 19 A Whoever it was that was talking, I think it  
 20 was the supervisor.  
 21 Q You mean the chairman?  
 22 A Yes, the chairman of the supervisors.  
 23 Q Was it one person who was doing the talking?  
 24 A They all chimed in here and there. I don't  
 25 remember — in fact, it may have been — it was probably

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1 Mrs. Wirth that said, anyhow, you don't want to be  
 2 submitting that here. Anyhow, you have to take it to the  
 3 County Planning Commission first; but they were all in  
 4 agreement that that is what had to be done.  
 5 Q It is your testimony, and I need to be clear  
 6 about this, it is your testimony and your recollection  
 7 that the person who said they are not going to sign it was  
 8 the chairman of the board of supervisors?  
 9 A I said I think that is who said it  
 10 initially; but as I said, they all chimed in, you know,  
 11 yeah, we are not going to sign this, no, we have got a  
 12 moratorium in place. I think Wilson was the one who said,  
 13 yeah, we have got a moratorium in place and we are not  
 14 signing it.  
 15 Q What did you say?  
 16 A I said you guys can't have a moratorium on  
 17 an ordinance that you don't have, I said.  
 18 Then I think Mrs. Wirth chimed in with, yes,  
 19 besides that, before we sign anything like this, you have  
 20 to submit it to the County Planning Commission. She said  
 21 something about, you are out of procedure or something  
 22 like that.  
 23 Q So you were aware at the time that you went  
 24 to the Township meeting in February of 2000 that there was  
 25 no subdivision ordinance in Jackson Township?

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1 A Right.  
 2 Q How did you become aware of that?  
 3 A Wilson had told me that way back when.  
 4 Q Did Wilson tell you way back when that they  
 5 were working on an ordinance?  
 6 A No, he did not. He claimed he told me that,  
 7 but that is not true at all.  
 8 Q When did he claim he told you that?  
 9 A At the meeting.  
 10 Q Do you know of any reason why Mr. Wilson  
 11 claimed to have told you that?  
 12 A Why, what was in his mind?  
 13 Q Yes. Do you know or do you have a belief as  
 14 to why he told you at the meeting of February 2000 that he  
 15 had previously told you that they were working on a  
 16 subdivision?  
 17 A You want me to speculate as to what was in  
 18 his mind as to why he did that?  
 19 Q I am not asking you to speculate what was in  
 20 his mind. I am asking you whether or not you had a belief  
 21 or have a belief as to why he told you that?  
 22 A Well, I think Mr. Wilson wanted to interfere  
 23 with the sale of this property and the subdivision of this  
 24 property, because he wanted it himself and now he is  
 25 trying to cover his tracks with, oh, I told you about

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1 that, and he never told me anything like that.  
 2 Why would I hire him to do test pits and do  
 3 perk tests and do all this stuff and pay the SEO if I knew  
 4 there was a moratorium on or he knew there was a  
 5 moratorium coming in. There is no sense to that.  
 6 So I think he was just trying to cover  
 7 himself as to why he had went ahead and gotten paid for  
 8 this work and then he was trying to say, well, I told you  
 9 this was going to happen and he never told me that.  
 10 Q Is it your belief then that he was telling  
 11 you this, that he had previously told you that they were  
 12 working on a subdivision ordinance, because he was  
 13 covering up because he accepted payments from you or  
 14 because he wanted the property himself or some other  
 15 reason?  
 16 A Both reasons that you just stated I think.  
 17 In fact, after he was able to break or the Hewetts backed  
 18 out of the contract, he sent his nephew to me how he  
 19 wanted to buy the property now, the 26 acres, the nephew  
 20 did, who was a backhoe operator and had no money, had no  
 21 wife, no family. All of a sudden the backhoe nephew wants  
 22 to buy the property from me.  
 23 Q Did you say anything else at the Township  
 24 meeting other than you can't have a moratorium because you  
 25 don't have an ordinance?

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1 A I told them, this isn't right. I said, you  
 2 can't have a moratorium on an ordinance that doesn't  
 3 exist. I said, I want this plan signed and I want, you  
 4 know, so we can get the sewer modules and proceed, because  
 5 I have got this sale -- I told them that I had the sale of  
 6 the property to the Hewetts, they already knew about that.  
 7 Q How do you know they knew?  
 8 A Because they said they knew, Wilson knew.  
 9 Q Who said they knew?  
 10 A Wilson said he knew that the Hewetts had  
 11 this property or had a contract on the property.  
 12 Q Did you raise your voice at this meeting?  
 13 A Raise my voice? Not much louder than what  
 14 you are listening to right now.  
 15 Q Were you angry?  
 16 A Well, I was obviously disturbed when all of  
 17 a sudden they are throwing me a curve and Wilson is  
 18 claiming he told me this was happening, which wasn't true.  
 19 The whole thing was, needless to say, very disconcerting.  
 20 I explained to the rest of the supervisors  
 21 that I had a contract for this property and that I also  
 22 had contractors lined up that were committed and I was  
 23 committed to them to build an art studio and a garage and  
 24 a house for my wife and I.  
 25 Q What contractor did you have lined up?

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1 A Max McClintic.  
 2 Q Up until the point of this February 2000  
 3 meeting, had you done any construction activities on the  
 4 property?  
 5 A No -- none that required -- we didn't do  
 6 anything. Wilson actually was supposed to start the road  
 7 back to the stream but that hadn't started yet.  
 8 Q When was he supposed to start that?  
 9 A He said he was going to start it as soon as  
 10 he got some of his vehicles and equipment in from other  
 11 jobs and they weren't there yet and there was, you know,  
 12 the typical contractor excuses and delays.  
 13 Q Did there come a point in time where  
 14 Mr. Wilson told you he couldn't do the work?  
 15 A Yes.  
 16 Q When was that?  
 17 A That was shortly right thereafter. I said,  
 18 are you doing this road for me or not? He said, Well, I  
 19 guess under the circumstances I can't or I won't do the  
 20 road. This is after we had the confrontation.  
 21 Q At the February meeting?  
 22 A At the February meeting, yes.  
 23 Q Where did this conversation take place where  
 24 he told you he couldn't do the work on the road?  
 25 A I don't recall if it was at that meeting,



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1 after the meeting, because their meetings only last 15 or  
 2 20 minutes, or I got on the phone with him a day or so --  
 3 the next day or something. I don't recall how it  
 4 happened.  
 5 Q Did anything else happen at the meeting that  
 6 we haven't discussed?  
 7 A They told me I needed to go to the County  
 8 Planning Commission and submit my plan there and that the  
 9 County Planning Commission would send it back to them for  
 10 their signature.  
 11 In other words, what they inferred to me  
 12 was, no, we don't have a subdivision ordinance, but we got  
 13 a moratorium on them; but the Huntingdon County Planning  
 14 Commission has a subdivision ordinance that you have got  
 15 to clear it through first. That was the inference that  
 16 they made to me.  
 17 Q So by you saying they made that inference,  
 18 they didn't specifically say that to you, correct?  
 19 A They specifically said that you can't bring  
 20 it here first, you have to first have the Huntingdon  
 21 County Planning Commission approve your review and approve  
 22 your plan.  
 23 Q Those were the words that were used?  
 24 A Those were the words that were used.  
 25 Q Who was it that used those words?

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1 A I would say it was probably Mrs. Worth that  
 2 said that. She is a secretary of that body, but she really  
 3 acts as a Township manager.  
 4 Q Did anything else happen at this February  
 5 2000 Township meeting?  
 6 A No, they just shut me off. They said, we  
 7 have got a moratorium, we are not going to approve your  
 8 plan and you have got to take it to the County Planning  
 9 Commission first anyhow, so that is it.  
 10 Q Did you thereafter discuss with anybody what  
 11 happened at the February 2000 Jackson Township meeting?  
 12 A Yes, I would have talked to Max McClintic  
 13 about it, I would have talked to my wife about it.  
 14 Q Anybody else?  
 15 A I may have discussed it with Fred McClintic,  
 16 but I don't know if I did or not. Definitely with Max.  
 17 Probably discussed it with Simpson. I would have  
 18 discussed it with Hewett, in fact, I know I discussed it  
 19 with Hewett.  
 20 Q Why do you know you discussed it with  
 21 Hewett?  
 22 A Because Hewett then started to take an  
 23 active role when they found out the Township was holding  
 24 us up, because it would have affected them.  
 25 Q Did you look into whether or not you had to

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1 submit your plan to the Huntingdon County Planning  
 2 Commission?  
 3 A No, I took their word for that. It sounded  
 4 quite logical and reasonable. My dealings were  
 5 exclusively, if I ever dealt with anybody, it was in  
 6 Centre County and I know Centre County has a Centre County  
 7 Planning Commission that has control over land  
 8 subdivisions. So I assumed that what they were telling me  
 9 was true.  
 10 Q There was nothing to prevent you from  
 11 looking into what they were telling you to see if it was  
 12 true, correct?  
 13 A I asked them for a copy of the ordinances at  
 14 one point, at which point they said there are none, we  
 15 have no copies of those.  
 16 Q When did that --  
 17 A It wouldn't have occurred at that meeting, I  
 18 think it occurred at the next meeting.  
 19 Q They said they have no copies or they had no  
 20 ordinances?  
 21 A They had no copies of any ordinances, they  
 22 only had the originals and couldn't provide we copies. I  
 23 said, I will pay for copies, they wouldn't give them to  
 24 me.  
 25 Q Who told you that they wouldn't give you

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1 copies of the ordinances?  
 2 A Mrs. Worth.  
 3 Q Were you aware that copies of the ordinances  
 4 were available at the county library?  
 5 A No.  
 6 Q You were not aware of that?  
 7 A No. I told you, I have not dealt in those  
 8 areas. I hired engineers to do this stuff when needed or  
 9 architects to do this stuff. If I had any involvement,  
 10 there was always another attorney that specialized in that  
 11 area that dealt with that, because that was not my area.  
 12 Q Up until the point of the March 2000 meeting  
 13 when you are saying that you were told that you could not  
 14 get a copy of the ordinance, did you consult with an  
 15 attorney?  
 16 A No.  
 17 Q Why not?  
 18 A Because I didn't think it was necessary, I  
 19 thought they were telling me the truth.  
 20 Q You didn't think it was necessary to consult  
 21 with an attorney, even though you are testifying that they  
 22 refused to give you a copy of the ordinance?  
 23 A You asked me between February and March did  
 24 I consult with an attorney, that is what I interpreted in  
 25 your question.

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1 Q I apologize for that.  
 2 After you were told they would not give you  
 3 a copy of the ordinance, did you consult with an attorney?  
 4 A I talked with Jim Himes in Huntingdon.  
 5 Q Did you talk to him for purposes of legal  
 6 representation?  
 7 A Yes. He was a close friend, so.  
 8 Q When you spoke with him, did you anticipate  
 9 that your conversation would be privileged?  
 10 A I would think so.  
 11 Q Were you thereafter able to review copies of  
 12 the Jackson Township ordinances?  
 13 A Did I review them or was I able to review  
 14 them?  
 15 Q Were you able to review them?  
 16 A After the ordinance was passed.  
 17 Q When was the ordinance passed?  
 18 A July the 7th of the year 2000.  
 19 MS. MONTGOMERY: Object to the form. Just  
 20 be clear on what ordinance you are talking about. You are  
 21 making assumptions here.  
 22 MR. SHERR: I was just referring to  
 23 ordinances and--  
 24 A I am talking about the subdivision  
 25 ordinance. I never reviewed any ordinances of the

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1 whatever, you can bring it by and I did. I gave him a  
 2 check for the \$75. I think it was 75, it may have been  
 3 more, less than a hundred dollars.  
 4 Q Did Mr. Stahl indicate to you that it was,  
 5 in fact, necessary for you to submit the plan to the  
 6 County Planning Commission?  
 7 A He didn't say one way or the other. He just  
 8 said we reviewed -- it is customary for us to review  
 9 plans, I don't remember that that was his exact language;  
 10 but he never said that it was required or wasn't required.  
 11 Q Did you ask him?  
 12 A I assumed from what I was told that I had to  
 13 do this and I assumed that Huntingdon County had a  
 14 subdivision ordinance, since I never heard of a county not  
 15 having a subdivision ordinance.  
 16 Q Did you ask Mr. Stahl whether or not it was  
 17 necessary for you to submit your plan to the County  
 18 Planning Commission?  
 19 A I said, I have a plan that Jackson Township  
 20 has asked me or told me I needed to submit to you, what is  
 21 your procedures? He told me; and he never said, you don't  
 22 have to submit it to us, we don't have any ordinances. He  
 23 treated it and led me down to believe that they had a  
 24 requirement that it had to be reviewed by them at the  
 25 Huntingdon County level.

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1 township.  
 2 BY MR. SHERR:  
 3 Q That is true even after you consulted with  
 4 this attorney in March?  
 5 A That's right.  
 6 Q Did you submit your plan to the County  
 7 Planning Commission?  
 8 A Yes.  
 9 Q When did you do that?  
 10 A Shortly within a few days of that February  
 11 meeting.  
 12 Q Did you personally submit it?  
 13 A I did.  
 14 Q Did you speak with anybody at the Planning  
 15 Commission at the time that you submitted it?  
 16 A I spoke to a Richard Stahl, the head of the  
 17 Huntingdon County Planning Commission.  
 18 Q What was the nature of your conversation  
 19 with Mr. Stahl?  
 20 A The nature of the conversation was, I have  
 21 been told by the Jackson Township commissioners or  
 22 supervisors that I needed to submit a plan to you for  
 23 review and approval.  
 24 Q What did he say?  
 25 A He says, yes, and our fee is \$75 or

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1 Q Did you ask him whether or not you had to  
 2 submit it to him?  
 3 MS. MONTGOMERY: Objection to the from.  
 4 BY MR. SHERR:  
 5 Q To the County Planning Commission?  
 6 A I already answered the question. He led me  
 7 to believe that I had to submit it to them and pay the fee  
 8 for their review for Jackson Township, as well as Mrs.  
 9 Wirth; and the supervisors led me to believe that that is  
 10 what I had to do if I wanted to get an eventual  
 11 subdivision approval once the moratorium was lifted.  
 12 Q Did you do anything else to determine  
 13 whether or not you had to submit your plan to the County  
 14 Planning Commission?  
 15 A No, I followed the instructions I was given  
 16 by the Township.  
 17 Q Why do you believe, if you have a belief,  
 18 that the Township told you to submit your plan to the  
 19 County Planning Commission?  
 20 A I have no idea, except my belief is that  
 21 they were trying to block or stop or interfere with my  
 22 development or subdivision of the land and so they were  
 23 throwing up another road block.  
 24 Q Why do you believe this was a road block?  
 25 A Because, obviously, in hindsight, we find



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1 that it was not necessary to submit this to the Planning  
 2 Commission at the county level. It was totally false and  
 3 unnecessary, in hindsight we find this out.  
 4 Q How did you find it out?  
 5 A It became obvious when I went and talked to  
 6 people that were knowledgeable, such as my attorneys here,  
 7 as to what is required.  
 8 Q When is it that you found out you did not  
 9 need to submit your plan to the County Planning  
 10 Commission?  
 11 A It would have been in the late spring.  
 12 Q Of 2000?  
 13 A Yes.  
 14 Q What happened when you submitted your plan  
 15 to the County Planning Commission, what did they do with  
 16 it?  
 17 A They came back with a letter, a copy of  
 18 which has been provided to you, evaluating the plan.  
 19 Q Contained within that letter they reference  
 20 the fact that there was a moratorium in Jackson Township,  
 21 correct?  
 22 A Yes.  
 23 Q Did they also review your plan with relation  
 24 to the proposed ordinance in Jackson Township for  
 25 subdivision?

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1 A I have no idea what they use as a basis,  
 2 except that it appears that they did, because they  
 3 reference the proposed plan that they had in their files.  
 4 Q Do you recall that in that letter they  
 5 stated, "the Jackson Township supervisors were in the  
 6 process of adopting a Subdivision and Land Development  
 7 Ordinance, the following comments are based on the draft  
 8 of Jackson Township Subdivision and Land Development  
 9 Ordinance."  
 10 A Yes.  
 11 Q Do you recall that?  
 12 A Yes.  
 13 Q Then that led you to believe that, in fact,  
 14 the County Planning Commission reviewed your plan under  
 15 the proposed subdivision ordinance, correct?  
 16 MS. MONTGOMERY: Object to the form.  
 17 MR. SHERR: What is the basis?  
 18 MS. MONTGOMERY: I didn't understand the  
 19 question.  
 20 BY MR. SHERR:  
 21 Q Do you understand the question?  
 22 A No, I don't.  
 23 MR. SHERR: Off the record.  
 24 (Recess.)  
 25 MR. SHERR: Back on the record.

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1 BY MR. SHERR:  
 2 Q Mr. Corneal, when we left off we were  
 3 discussing a letter that you received from the Huntingdon  
 4 County Planning Commission. You did receive a copy of the  
 5 letter, correct?  
 6 A Yes.  
 7 Q I note that also copied on the letter was  
 8 Mr. Simpson, who we already discussed, and it indicates  
 9 Rouzer, R-O-U-Z-E-R, do you know who that is?  
 10 A May I see that.  
 11 Q Sure. We can make a copy. I didn't make  
 12 copies.  
 13 A I am not sure who that is. I am thinking,  
 14 but I don't want to be held to this just to help you, but  
 15 it may be the staff member in the office that may have  
 16 done part of the review that Mr. Stahl then signed it, I  
 17 don't know, the name seems to ring a bell.  
 18 Q It is true, is it not, that the Planning  
 19 Commission recommended that your proposal be denied,  
 20 correct?  
 21 A Yes.  
 22 Q What is your understanding as to why they  
 23 recommended that it be denied?  
 24 A Well, the main thing that they didn't like  
 25 was the four and a half acre tract of land didn't have

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1 road frontage and so they -- and the other main reason was  
 2 the moratorium, as I understood it.  
 3 Q Did you discuss this letter that you  
 4 received from the Huntingdon County Planning Commission  
 5 with anyone?  
 6 A Yes.  
 7 Q Who did you discuss it with?  
 8 A Well, I would have discussed it with Mr.  
 9 Simpson, because I had him redraft the plan. I probably  
 10 would have discussed it with McClintic, Max. I certainly  
 11 discussed it with my wife probably, maybe not, but  
 12 probably.  
 13 Q Anybody else?  
 14 A I think that one of the things in that  
 15 letter, if I can look at it a second -- there was a  
 16 question at one point regarding the question of wetlands.  
 17 Here it is, number 2 on page 1.  
 18 I have an engineering firm in State College  
 19 that I hired to -- since the soil maps indicated a  
 20 possible wetland area where one of the sewage disposal  
 21 places were, even though the SEO was there and identified  
 22 the location and, obviously, wouldn't have identified it  
 23 in the middle of the wetlands, they pointed out something  
 24 about the property potentially being -- the one sewage  
 25 site potentially being wetland, as a result, the Township

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1 seized on that and said, we can't possibly approve this,  
 2 there is a potential of your sewage site being on  
 3 wetlands.  
 4 I said, Your SEO was there and identified  
 5 this location, he knows it is not wetlands. Well, we need  
 6 a certification. Just another roadblock they were  
 7 throwing up, so that I had to go to the engineer and send  
 8 him out there again, a second time, and pay them to  
 9 identify or to certify that this was not wetlands.  
 10 Q At what point were you told that there may  
 11 be wetlands?  
 12 A When the letter came in. When you have  
 13 200 --  
 14 Q Back up. When did you hire Blozsky  
 15 Associates?  
 16 A I don't recall exactly when I hired them. I  
 17 don't remember exactly. I can look at their bills and  
 18 tell when they did work.  
 19 Q Do you recall whether it was before or after  
 20 you attended the February Township meeting?  
 21 A I don't recall.  
 22 Q Who was it from the Township that told you  
 23 that there may be wetlands involved?  
 24 A Well, several of the supervisors brought it  
 25 up and Mrs. Worth was quick to jump all over it. Well,

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1 there may be wetlands here, she says, and we are going to  
 2 need a certification that this isn't wetlands.  
 3 I said, your SEO officer reviewed, he picked  
 4 the sites, there isn't wetlands. Well, we don't know  
 5 that, so you are going to have to go and send engineers  
 6 out there to get a certification.  
 7 Q Where did this conversation take place?  
 8 A This took place in one of the meetings, one  
 9 of the Township meetings.  
 10 Q Did it take place at the February 2000  
 11 meeting?  
 12 A No, it took place in I think at the March  
 13 meeting.  
 14 Q Do you believe that, even though this letter  
 15 is dated February 24, 2000, this letter being the  
 16 Huntingdon County Planning Commission letter that we are  
 17 discussing?  
 18 A Well, it happened in March, yes, it happened  
 19 in March, yes, as I said, at the March meeting.  
 20 Q Why did you originally hire Blozsky &  
 21 Associates to conduct the wetlands investigation?  
 22 A Because I wanted to know, to make sure that  
 23 I wasn't doing anything wrong in locating my buildings and  
 24 particularly with regard to putting our driveway in,  
 25 because our driveway then comes down and goes along the

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1 stream and I knew how sensitive everybody -- the DEP was  
 2 with wetlands, so I brought the engineers in to make sure  
 3 that we weren't violating any of the wetland  
 4 specifications.  
 5 Q Did you bring in the engineers before or  
 6 after the February 2000 Township meeting?  
 7 A Well, you asked me that before. And I would  
 8 suspect, now that I had talked to Wilson about putting the  
 9 road in, that it was probably before.  
 10 Again, I want to be able to correct that if  
 11 I am wrong, based on their invoice to me, which will tell  
 12 me when they did the work for me.  
 13 Q What prompted you to even consider or worry  
 14 about wetlands?  
 15 A Wilson told me that he thought there was  
 16 some wetlands down in here when I talked to him about  
 17 doing the road. I said, well we certainly don't want to  
 18 fill in any wetlands, so that is when I got them involved.  
 19 Q What did they tell you?  
 20 A They said, no wetlands where the road was  
 21 already and where it was going to go, where the driveway  
 22 was, no problem.  
 23 Q Did you tell the individuals from the  
 24 Township who you were speaking to at the March 2000  
 25 meeting when the subject of wetlands came up that you had

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1 an investigation going?  
 2 A You are talking about two different things.  
 3 You are talking about a wetland investigation by a sewage  
 4 site versus a wetlands investigation regarding the  
 5 driveway, so whatever showed up there.  
 6 The SEO was there. He knows what wetlands  
 7 are. He approved the location to dig the pit. He approved  
 8 the perk tests that were done in that location and I  
 9 couldn't fathom and I don't think anybody of rational  
 10 thinking could fathom that he would have set that location  
 11 in the middle of a wetland, but that is what the Township  
 12 tried to -- another roadblock they threw up, well, we  
 13 don't know, because the Planning Commission questions  
 14 whether or not there were wetlands there or not. So I had  
 15 to send them out again to do it, to confirm that there  
 16 were no wetlands.  
 17 Q So it is your understanding that whatever  
 18 was said about wetlands at the March 2000 meeting was  
 19 based on the Planning Commission letter of February 24,  
 20 2000?  
 21 A I don't know what the basis of it was, but  
 22 it certainly had some basis in the letter from the  
 23 Planning Commission. I think it was that letter. I didn't  
 24 thoroughly go through -- didn't it say something about  
 25 wetlands in there?

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1 Q Yes, I think you referenced it earlier --  
 2 A I don't know if -- yes, right. The proposed  
 3 house studio and sewage system for lot number two are  
 4 within these soil types and that is what forced us to go  
 5 back out again.  
 6 Q Was it the County Planning Commission letter  
 7 that required you to go hire Blazosky again or is it  
 8 something that the Township --  
 9 A The Township did. The Township said, We  
 10 want a certification. Look here, the Planning Commission  
 11 said there is a -- we don't know, you are into soil types  
 12 of wetland type soils, so we want you to go and hire  
 13 somebody and certify to us that our SEO didn't put a  
 14 sewage system in a wetland area.  
 15 Q What did you do in response to receiving the  
 16 County Planning Commission letter?  
 17 A Well, the main objection, aside from the  
 18 moratorium, was the fact that this 4.5 acre lot didn't  
 19 have road frontage. The 4.5 acre lot was insignificant,  
 20 it didn't matter didley to me. I was doing it to set it  
 21 aside for one of the kids. So I told Simpson to redraw  
 22 the plan and just cut it down to two lots, the 26 acre lot  
 23 with the house and the barn and the remainder and he did,  
 24 he redrew the plan.  
 25 Q I am going to read you the last paragraph of

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1 this letter, the letter being the February 24, 2000 letter  
 2 from Richard E. Stahl, Planning Director, Huntingdon  
 3 County Planning Commission: "Please contact this office  
 4 with any questions concerning these comments. As always,  
 5 the local municipality is encouraged to carefully review  
 6 the subdivision/sewage module for compliance with Township  
 7 and state requirements."  
 8 In response to this letter, did you contact  
 9 the Planning Commission office?  
 10 A I discussed that letter with one of the  
 11 people that reviewed, and his indication was that the main  
 12 thrust of the problem in his opinion was the lot that  
 13 didn't have any road frontage, because everybody was going  
 14 to be concerned, it was on the other side of the stream,  
 15 how are you going to get access to that lot. I said, That  
 16 lot doesn't mean that much to me. We never discussed the  
 17 fact that -- he never brought up that there was a wetlands  
 18 problem or anything.  
 19 I think these guys just throw a lot of stuff  
 20 in the letters and things.  
 21 Q Do you know who that was that you discussed  
 22 it with?  
 23 A That is why I am saying, it wasn't Stahl,  
 24 but it may have been that guy that was copied, Rouzer, but  
 25 I am not sure of the name. If that is the guy that works

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1 in that office, if that is his name, then that is who I  
 2 discussed it with.  
 3 Q How did you get to that person who you  
 4 discussed it with?  
 5 A I called the office and they said, oh, this  
 6 so and so reviewed the plan, did the main review on it and  
 7 you should talk to him or maybe it was that Stahl wasn't  
 8 there, why don't you talk to this guy and it turned out  
 9 that he did some of the review or all of the review of the  
 10 plan.  
 11 Q You made changes to your plan based on what  
 12 you learned in that letter or any conversation that you  
 13 had?  
 14 A Yes, I did.  
 15 Q Who made those changes?  
 16 A Simpson made the changes for me.  
 17 Q Do you know whether Simpson in making the  
 18 changes reviewed a draft of the proposed Jackson Township  
 19 Subdivision Ordinance?  
 20 A I don't know that.  
 21 Q Do you know whether he had a copy of the  
 22 proposed Jackson Township Subdivision Ordinance at the  
 23 time?  
 24 A I don't know anybody that had a copy of  
 25 that, with the exception of the Planning Commission,

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1 because we kept asking for those things and, well, when it  
 2 is all finished and all proofread, you will get a copy or  
 3 you will get the original was the response that we  
 4 normally got at those meetings.  
 5 Q Did you attend the March 2000 meeting of the  
 6 Jackson Township board of supervisors?  
 7 A To the best of my knowledge, I did, yes.  
 8 Q Was that meeting before or after you  
 9 received the February 24, 2000 letter from Huntingdon  
 10 County Planning Commission?  
 11 A I would think that it was after, it was the  
 12 first Monday of March.  
 13 Q What was your purpose in going to that  
 14 meeting?  
 15 A I took my sewer modules there to be signed.  
 16 Q What happened at the meeting?  
 17 A I asked them to sign the sewer modules. They  
 18 basically looked at me and said, What are you doing here?  
 19 I said, I am here to get the sewer modules signed. Oh, we  
 20 are not signing any sewer modules.  
 21 Q Who said that?  
 22 A Well, Wilson said it for one and so did --  
 23 they all kind of chimed in, Yoder, they all looked at each  
 24 other, you agree with that? Yes, I agree, we are not  
 25 signing anything for him.

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1 Q Did they tell you why they are not signing  
 2 the sewer modules?  
 3 A They said they are not signing the sewer  
 4 module because of their moratorium.  
 5 Q What did you say?  
 6 A I said, Forget your moratorium, forget the  
 7 subdivision, I said, I want to build a house, I have got  
 8 commitments to build a house and an art studio. I said, I  
 9 want to get approval to build the house. Forget that, I  
 10 said, I am not asking you for a subdivision. I am telling  
 11 you I own a 95 acre piece of ground and I want the sewer  
 12 modules signed so that I can get permits to build the  
 13 house.  
 14 Q Why did you believe that you needed the  
 15 sewer modules signed to get permits to build the house?  
 16 A Because DEP had to review sewer modules and  
 17 they would only review sewer modules that were sent to  
 18 them via the Township.  
 19 Q Why did you believe that you had to get the  
 20 sewer modules signed in order to get permits to build your  
 21 house?  
 22 A Because you had to have a septic system or  
 23 you had to have a sewage system approved by DEP and Wilson  
 24 told me that.  
 25 Q Didn't you testify that there was already

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1 on-site sewage with respect to the house and the barn?  
 2 A The farmhouse.  
 3 Q Right.  
 4 A This house was, you know, a quarter of a  
 5 mile, a half a mile away.  
 6 Q Did anybody tell you that you needed to have  
 7 the sewer modules signed by the Township and approved by  
 8 DEP in order to get a building permit to build your house?  
 9 A Yes, Wilson told me that.  
 10 Q When did Wilson tell you that?  
 11 A When we were doing the system or checking  
 12 out the locations and doing the perk tests.  
 13 Q And he told you that you needed this, even  
 14 if you didn't want to subdivide the property?  
 15 A Yes, if you were going to build a property  
 16 and you were going to provide a sewage disposal on the  
 17 property, you had to have a DEP permit.  
 18 The only way you got that is you dig a hole  
 19 in the ground and you found soil types that were suitable,  
 20 like we did.  
 21 Then we did a perk test, which we found it  
 22 perked and were suitable and the SEO signed them and now  
 23 the Township needed to sign them and they would have been  
 24 sent on to DEP for an approval and that approval would  
 25 have taken from what I understood, maybe 5 or 10 days.

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1 Then I could go and I could get my building permit and  
 2 begin building the site.  
 3 Q So at the March meeting, the only reason you  
 4 were given why the Township would not sign the sewer  
 5 modules was because of the moratorium, is that correct?  
 6 A No.  
 7 Q What other reason?  
 8 A Well, yes and no.  
 9 Here is the twisted distortion that they  
 10 took on this thing, which is very interesting. They said,  
 11 We have a moratorium on subdivisions. I said, I know you  
 12 do, you told me that. I don't agree with it, but let's  
 13 forget the subdivision for a minute. I have a 95 acre  
 14 tract of ground, I have sewer sites approved by your SEO,  
 15 signed by him. I want permits to build my house, forget  
 16 about the subdivision, I am not asking you to subdivide  
 17 it. I am not asking you right now to subdivide this land.  
 18 I am asking you to give me permits to build my house.  
 19 Their response was, Oh, wait a minute, if  
 20 you build two houses on one tract of ground under DEP  
 21 regulations, that is a subdivision. Therefore, it comes  
 22 under our subdivision moratorium.  
 23 Q You were told that at the meeting?  
 24 A Absolutely.  
 25 Q Who told you that?

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1 A Well, Ann Wirth was quite joyously saying  
 2 that, Oh, but you can't do that because, you know, it  
 3 constitutes a subdivision under DEP, therefore, you can't  
 4 do it. So did the rest of the supervisors, they all  
 5 chimed in, Oh, yeah, that's right, you can't do that, you  
 6 can't do that, so you are still in the subdivision  
 7 moratorium, therefore, we are not going to sign your  
 8 modules.  
 9 Q Did anything else happen at this March 2000  
 10 meeting?  
 11 A As I said, their meetings last about 15  
 12 minutes to a half hour max, not much.  
 13 Q What else happened?  
 14 A That is all I know, I mean as far as it  
 15 affected me.  
 16 Q That is all I am interested in.  
 17 A After they adjourned their meeting, I tried  
 18 to talk to them about it and still, I got the same stone  
 19 wall. You are still under subdivision and still under a  
 20 moratorium and we are not going to give you anything.  
 21 I did ask one other thing, I said, When are  
 22 your subdivisions going to be approved? The response was,  
 23 Well, we should approve it in April.  
 24 MS. MONTGOMERY: Excuse me.  
 25 A But they didn't.

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1 MS. MONTGOMERY: Can we clarify the record  
 2 here, because I am not sure I understand what my client  
 3 just said. Were you talking about the subdivision or  
 4 subdivision ordinance?  
 5 A Their proposed subdivision ordinance that  
 6 they imposed a moratorium on they told everybody was going  
 7 to be probably approved in April.  
 8 MS. MONTGOMERY: You didn't say subdivision  
 9 ordinance the first time, you said --  
 10 A No.  
 11 But conveniently, they didn't approve it  
 12 even though it had been on the books or been in the works  
 13 for months and months and months, they didn't approve it  
 14 until a week after my contract ran out with Hewetts.  
 15 BY MR. SHERR:  
 16 Q Did you have any discussion with anybody  
 17 about what happened at the March 2000 Township meeting?  
 18 A I would have discussed it again with Max  
 19 McClintic, I certainly discussed it with my wife. I don't  
 20 know if I would have talked to Simpson about it, because  
 21 by that time Simpson had been instructed to redo the plan;  
 22 but I probably discussed it with him. I certainly would  
 23 have discussed it with Hewetts, because it affected them.  
 24 Q Was there anybody with you at either the  
 25 February or March meeting?

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1 A The March meeting the Hewetts were there.  
 2 Of course, then there was half a dozen people in the  
 3 audience.  
 4 Q Anybody that you knew?  
 5 A No, they were legal local residents.  
 6 Q After the March meeting, did you commence  
 7 any construction activity on the property?  
 8 A No.  
 9 Q Did you do anything to put a driveway in on  
 10 the property after the March meeting?  
 11 A I don't know -- after the March meeting, of  
 12 course, we did. After the March meeting, did we start  
 13 construction, yes; but not immediately after then, you  
 14 have to give me a time frame where you are asking.  
 15 Q When did you start the construction of the  
 16 driveway on the property?  
 17 A Well, as soon as the weather broke, and I  
 18 suspect that was probably I am going to say April.  
 19 Q Did you have a permit to put the driveway  
 20 in?  
 21 A Didn't need a permit.  
 22 Q So your answer would be, no, you did not  
 23 have a permit?  
 24 A I had no permit that I didn't need, that's  
 25 right.

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1 On further clarification, as I said, that  
 2 roadway was already in there, was an entry on to the  
 3 Township road already, it existed. There was no new road  
 4 being put in or driveway being put in. What was being  
 5 done was resurfacing the existing roadway that was there.  
 6 Q Why is it that you believe that you did not  
 7 need a permit to do the driveway work?  
 8 A Because it turns out at their -- in  
 9 hindsight, in their July -- first of all, I didn't think I  
 10 needed it, because it was already an existing driveway,  
 11 that is the first reason.  
 12 Then as a side issue, in their July 7  
 13 meeting, when they passed the subdivision ordinance, for  
 14 the first time they passed a driveway permit ordinance,  
 15 they never had one prior to that.  
 16 They did force people, I found out from  
 17 neighbors, they did force people to pay them fees and  
 18 force them to cut trees down and do all kinds of stuff to  
 19 put a driveway in but they had no ordinance for it.  
 20 Q Who was it you believe they forced to do  
 21 this?  
 22 A One of my neighbors had told me about having  
 23 to do that, I don't remember his name.  
 24 Q Do you remember anything about him?  
 25 A Yes, he lives off Miller Road.

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1 Q When did he tell you this?  
 2 A He told me this in the summer of the year  
 3 2000. They forced him to cut down some beautiful old  
 4 trees that were near the entry way to his driveway. They  
 5 never had an ordinance allowing that, and he said he paid  
 6 them a fee to put the driveway in.  
 7 Q Did anybody else tell you that the Township  
 8 required them to cut down trees or pay a fee for a  
 9 driveway?  
 10 A No.  
 11 Q You thereafter submitted another plan to the  
 12 Huntingdon County Planning Commission, right?  
 13 A That's right.  
 14 Q And you received a letter back from Richard  
 15 Stahl at the Planning Commission?  
 16 A Yes.  
 17 Q This letter recommended conditional approval  
 18 of the proposed subdivision plan?  
 19 A Of the two-lot subdivision plan, that is  
 20 correct.  
 21 Q And the recommended approval pending  
 22 adoption of the Subdivision and Land Development  
 23 Ordinance?  
 24 A Well, whatever it says, it says. The basis  
 25 of not recommending approval I understand was their



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1 moratorium.  
 2 Q Did you receive a copy of the April 20  
 3 Planning Commission letter?  
 4 A Yes.  
 5 Q What did you do after receiving a copy of  
 6 the letter?  
 7 A What did I do? In what regard?  
 8 Q With regard to your attempts to subdivide  
 9 and build on the property?  
 10 A Well, they already had blocked me. As far  
 11 as I was concerned at best I had started a process that  
 12 was going to help me eventually to get a subdivision,  
 13 which I should have been entitled to anyhow. So what would  
 14 I do with it? There was nothing to do with it, except,  
 15 you know, if I re-submitted it to the Township I would get  
 16 the same response, we have a moratorium in place, we are  
 17 not going to approve it.  
 18 Q Did you attend the April meeting of the  
 19 Township board of supervisors?  
 20 A No.  
 21 Q Did you attend the May meeting of the  
 22 Township board of supervisors?  
 23 A I don't believe so, no.  
 24 Q Did you have any contact with anybody, any  
 25 official or employee from the Township during April or

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1 Q Who said that?  
 2 A It was Ann Wirth mainly, but all of them  
 3 were chiming in at the same -- you can't do that, no, you  
 4 have got to have sewer in the art studio. If somebody had  
 5 to go to the bathroom, where would they go? I said, Fine,  
 6 Tom Wilson, you told me you have a privy permit in this  
 7 Township, I said, I want a privy permit.  
 8 Q What did they say?  
 9 A They said, Well, you will have to talk to  
 10 the SEO about getting a privy permit. I said, Fine, I will  
 11 talk to the SEO.  
 12 So I went home that night and at 10:00  
 13 o'clock at night I call the SEO. Oh, Dave, he says, I  
 14 wish you wouldn't be calling me about this. I said, Did  
 15 somebody call you already from the Township? He said,  
 16 Yes, they have already called me and they told me you are  
 17 not allowed to have a privy permit and that I am not  
 18 allowed to help you get a privy permit.  
 19 Q Did you ask him why?  
 20 A He said, you know, I can't talk to you about  
 21 it, don't put me in the middle of this. I am not allowed  
 22 to give you help or a privy permit; but, he says, I will  
 23 talk to Wilson about it and see if we can't clear this up.  
 24 He says, I will call you in a day or so. I  
 25 said, Fine; this is Barry Parks.

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1 May?  
 2 A I don't know if it was April or May. I went  
 3 to a meeting and it was probably the March meeting and I  
 4 said, Well, if you won't give me a sewer module for my  
 5 house, I said, I want to build an art studio. I want to  
 6 at least get started on construction of my art studio.  
 7 They said at that meeting, Nope, you can't  
 8 do that, you have got to have sewer to that art studio. I  
 9 said, We are not putting sewer into the art studio. Well,  
 10 you have got to have it.  
 11 I said, Tom Wilson told me you have a privy  
 12 permit here, so I want a privy permit, I will put a privy  
 13 in with the art studio.  
 14 Q What meeting do you believe this occurred  
 15 at?  
 16 A I think this was the March meeting. This was  
 17 when they hit me with the, Oh, we don't care if your are  
 18 forgetting about the subdivision or not, we are not going  
 19 to give you this, because your house requires a sewer  
 20 module approval and, therefore, it is a subdivision under  
 21 the DEP regulations.  
 22 I said, okay, forget that, I said, I want to  
 23 start the art studio, which didn't have any sewer, so how  
 24 do I get a permit for the art studio? You can't get a  
 25 permit for the art studio was the response.

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1 I don't hear anything from Barry Parks for 3  
 2 or 4 days. So I called him and I put message upon message  
 3 upon his answering machine: Barry, I need a privy permit  
 4 so I can start my art studio, and he refused to call me  
 5 back.  
 6 Q Did he ever call you back?  
 7 A No, never called me back.  
 8 Q Did you do anything else with respect to  
 9 trying to get a privy permit?  
 10 A What else could I do? I had asked the  
 11 Township, they said, you had to go through the SEO  
 12 officer.  
 13 The SEO officer was instructed by the  
 14 Township and the supervisors not to assist me in any way  
 15 to get a privy permit and he is the only one that could  
 16 issue one. What else would I do?  
 17 Q So then your answer is, no, you did nothing  
 18 else?  
 19 A Unless there is a supreme SEO officer, no, I  
 20 did not do anything else.  
 21 Q The reason you believe that Mr. Parks was  
 22 told not to help you get a privy permit is based on what  
 23 Mr. Parks told you?  
 24 A The reason I believe is that they were  
 25 absolutely adamant that they were going to interfere with



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1 my construction, subdivision, anything that I wanted to  
 2 do, they were going to stop, period, that is what their  
 3 intention was, that is what I believe and I think their  
 4 conduct demonstrates that.  
 5 Q Do you know of any reason why they would  
 6 want to stop you from building this studio?  
 7 A Well, Mr. Domlin, later on, Van Domlin, said  
 8 it was because I was a trouble making yuppie from over the  
 9 mountain.  
 10 Q When did he say that?  
 11 A When I went to apply for a building permit.  
 12 You see then afterwards, I went about the  
 13 end of April, I decided this is crazy, I have got  
 14 contractors who are depending upon me, they have given up  
 15 other work to build my project, I have got to get started  
 16 with something. So I found out who the building permit  
 17 officer was.  
 18 Q How did you find that out?  
 19 A I think I had found that out earlier when I  
 20 talked to Ann Wirth. I said, Who is your building permit  
 21 officer and she told me. So I looked him up and I called  
 22 him. I called him up on the phone and I said, How do I  
 23 get to your place? He has a trailer out in the country.  
 24 I said, I want to come out and get a building permit.  
 25 I didn't tell him my name. I said I am a

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1 you anything, any permits, applications anything. I said,  
 2 Why? He said, Because you are that trouble making yuppie  
 3 from over the mountain.  
 4 I said, Well, I am not leaving until I  
 5 resolve this, we have got to get this resolved. He said,  
 6 Well, I will get on the phone. So he gets on the phone  
 7 and he calls two or three supervisors, can't reach  
 8 anybody, he finally reaches Tom Wilson.  
 9 Now, I am not listening to Tom Wilson's  
 10 voice, but he says, Yes, Tom, this is Van Domlin, got  
 11 Corneal here, wants a building permit for a garage. Don't  
 12 give him anything. We are meeting tomorrow morning -- the  
 13 supervisors are meeting tomorrow morning to discuss him.  
 14 That was a Thursday, so they would have been  
 15 meeting Friday morning. He said to me, After they meet  
 16 and call me, I will call you and let you know. I said, At  
 17 least give me an application so I can fill it out. Nope,  
 18 you are not getting any applications, you are not getting  
 19 nothing.  
 20 I said to him, I said, if I were another  
 21 resident of the county or the Township, and I came into  
 22 get a permit for a garage, would you give it to him? Yep,  
 23 sure would. I said, Why won't you give it to me? He  
 24 said, I already told you, you are that trouble making  
 25 yuppie and the supervisors told me not to give you

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1 resident out there, a property owner, I want to get a  
 2 building permit for a garage. He gave me directions to  
 3 his place.  
 4 There is a letter confirming our  
 5 conversation/meeting at the end of April, and I drove out  
 6 there on a Thursday. You have a copy of the letter that I  
 7 had sent to him, that will identify the specific day, I  
 8 think it was the 27th.  
 9 I guess I made the mistake of introducing  
 10 myself. Hi, I am David Corneal. All of a sudden this  
 11 cloud comes over his face, Who are you? David Corneal.  
 12 What do you want? I am here to get a building permit for  
 13 a garage. I said, Can I come in? He let me in the door.  
 14 I said, I have got plans with me, I am  
 15 building this garage. So I was building a house, an art  
 16 studio and a garage. I figured I had the one thing that  
 17 does not need sewer was the garage. It had no water, no  
 18 sewer at least initially. So I said, I came to get a  
 19 permit for my garage.  
 20 Oh, he says, I am not giving you a permit.  
 21 I said, Well, give me an application for a permit, because  
 22 your ordinance says that I have to apply under your  
 23 forms.  
 24 Nope, not giving you an application either.  
 25 I said, Why not? He said supervisors told me not to give

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1 anything and I work for the supervisors, so I am not  
 2 giving you anything.  
 3 Q Do you know of any other reason, other than  
 4 what your testimony is that you are this trouble making  
 5 yuppie from over the mountain, as to why they wanted to  
 6 prevent you from building on this property?  
 7 A Well, I think that Tom Wilson wanted his  
 8 piece of his old family farm, because after the contract  
 9 was breached by Hewetts, Tom Wilson's nephew approached me  
 10 and says, Well, I am still interested in buying that  
 11 property from you.  
 12 Q Any other reason why you believe any  
 13 official or employee from the Township was trying to  
 14 prevent you from building on this property that you owned  
 15 in Jackson Township?  
 16 A I think that is more than sufficient that  
 17 they are going to -- they just wanted, I guess, show me  
 18 who was boss and who was in control in their Township.  
 19 Q Did you start building on the property?  
 20 A Yes.  
 21 Q When did you start building?  
 22 A I started building in July.  
 23 Q Did you have permits to build in July?  
 24 A No, I waited 90 days.  
 25 Q You waited 90 days for what?

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1 A Since I was wrongfully denied even the  
 2 applications.  
 3 Q Why did you wait 90 days?  
 4 A Because I had consulted with Mr. Lucas of  
 5 this law firm.  
 6 Q And he advised you to -- strike that.  
 7 A Nope, I am not going to tell you what he  
 8 advised me.  
 9 Q I don't want to know. I apologize for that.  
 10 Did you attend any other Township meetings  
 11 after the March 2000 meeting?  
 12 A As I said, I don't think I attended April,  
 13 but it certainly wasn't anything after April, probably  
 14 nothing after March.  
 15 Q Did you have any other conversations with  
 16 any officials or employees of the Township after your  
 17 conversation with Mr. Van Domlin?  
 18 A I tried to discuss this with Newton numerous  
 19 times, these problems with the solicitor for the  
 20 Township.  
 21 Q With anybody else other than Mr. Newton?  
 22 A With the Township, related to the Township  
 23 in? No.  
 24 Q You allege in your complaint that complaints  
 25 were made with the Army Corps of Engineers and DEP

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1 regarding wetlands. What led you to believe that such  
 2 complaints were made?  
 3 A Because I was there when the two of them  
 4 showed up, Army Corps of Engineers and a DEP  
 5 representative, they said that they had complaints that I  
 6 was filling in wetlands.  
 7 Q What if anything did you say to them?  
 8 A I said, Is this a complaint from Wilson?  
 9 They smiled and they said, Well, we really can't say who  
 10 called us. I said, Well, Wilson is not -- has lost this  
 11 job and I have given it to some other excavator and he  
 12 would have had the job otherwise.  
 13 Q When did this conversation take place?  
 14 A The day that they showed up. You would have  
 15 to look at their records. It would have been after I  
 16 started shaling the old driveway.  
 17 Q Do you know what month this was?  
 18 A I am guessing it was April sometime.  
 19 Q This was after Mr. Wilson told you he  
 20 couldn't be involved any more with your property?  
 21 A He didn't say he couldn't be involved. He  
 22 said he wasn't going to put the driveway in for me.  
 23 Q So why did you tell them Mr. Wilson lost the  
 24 job?  
 25 A Why did I tell them? Because they were kind

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1 of hinting that it was the Township or Wilson that had  
 2 called them and filed a complaint. I am sure we could find  
 3 that out, who did it. I was just explaining to them why,  
 4 what would have motivated his complaint or the Township's  
 5 actions.  
 6 Q That is what I am trying to find out. Why  
 7 do you believe that that was motivating Mr. Wilson if he  
 8 did make the complaint that he lost the job, when, in  
 9 fact, he told you that he couldn't be involved with the  
 10 job?  
 11 A That is your language. I never said he  
 12 couldn't be involved with the job. He said that he  
 13 couldn't build the driveway then when it was supposed to  
 14 have been done. He didn't say he didn't want anything to  
 15 do with it or that he didn't want the job.  
 16 I don't know if it was him for sure or not  
 17 or if it was somebody from the Township that filed a  
 18 complaint with these people. I wouldn't be surprised if  
 19 the call didn't come from Ann Wirth.  
 20 Q Why would that not surprise you?  
 21 A Because she seemed to be the person taking  
 22 the lead in many of the obstacles that they were trying to  
 23 throw in my way.  
 24 Q But you have no other basis other than what  
 25 your belief is and what you just testified to, right?

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1 A You asked me what my belief is and that is  
 2 my belief. We can easily find that answer out by deposing  
 3 DEP or the Corps of Engineers and find out who filed the  
 4 complaint.  
 5 Q What I am trying to find out, Mr. Corneal,  
 6 is the basis of your belief and why you believe that it  
 7 was Ann Wirth or Tom Wilson who called DEP and/or the Army  
 8 Corps of Engineers with respect to an alleged wetlands  
 9 violation?  
 10 A My belief is that it was a continuation of  
 11 the harassment and the unreasonable restrictions they were  
 12 placing on me to stop me from doing anything with my  
 13 property.  
 14 Whether Wilson was angry that he actually  
 15 lost the job entirely now, I don't know that. I am just  
 16 making an assumption. You asked me what I thought, so I  
 17 am telling you what I thought.  
 18 But it clearly was Township officials who  
 19 were trying to continue to interfere with rights that I  
 20 had in my property. I certainly had a right to re-shale  
 21 my driveway or a driveway that already was existing.  
 22 Q You didn't have a right though, did you, to  
 23 fill in wetlands?  
 24 A But I wasn't filling in wetlands and I  
 25 checked that out and they knew I checked that out.

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1 Q How did they know that?  
 2 A Because they had the report from Blozsky.  
 3 Q When did they get that report?  
 4 A They knew about that report. That is how it  
 5 came up in -- they got a copy of the report from the  
 6 engineering company at some point. I am sure that if we  
 7 look at their -- I think if we look at their  
 8 correspondence, that they copied the Township.  
 9 Q Now, this is the second report that Blozsky  
 10 & Associates did that you are referring to, correct?  
 11 A I don't know if both of them weren't sent to  
 12 the Township.  
 13 Q Let's just concentrate on the question. You  
 14 are referring to a second report that Blozsky did, right?  
 15 A I am referring -- Blozsky did two reports  
 16 for me and build me twice, one related to the land, one  
 17 related to the sewage site. Whether they had gotten a copy  
 18 of each, I am not sure.  
 19 Q The second report is the one that you  
 20 commissioned Blozsky & Associates to do with respect to  
 21 whether or not any wetlands were impacted by this proposed  
 22 driveway, correct?  
 23 A Wrong. That was the first report.  
 24 Q The second report dealt with --  
 25 A The SEOs locating a sewage site for our

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1 house.  
 2 Q Do you believe that the Township got a copy  
 3 of Blozsky's first report dealing with whether or not any  
 4 wetlands were impacted by the driveway?  
 5 A I think so, I don't know that for a fact.  
 6 Q Why do you believe it?  
 7 A Because it is standard procedure with  
 8 engineers that often times -- most of the times they copy  
 9 the Township engineer or Township officials when they do  
 10 something that relates to a Township matter or it could  
 11 relate to a Township matter. Whether they did that in  
 12 Jackson Township, I don't know.  
 13 Q Did you bring an action against the Hewetts,  
 14 I know it is Hewetts and Smith, but referring to them as  
 15 Hewetts, for breach of contract?  
 16 A No.  
 17 Q Why not?  
 18 A As far as I was concerned, they had made a  
 19 deposit of \$7,000 and I was not interested -- the guy has  
 20 a disease, Hewett has a disease, MS, and I just, you know,  
 21 as far as I was concerned, they forfeited the \$7,000 and I  
 22 did not pursue it at this point. I have 2 or 3 years,  
 23 whatever the statute of limitations is.  
 24 Q You kept the \$7,000?  
 25 A So far, but we had expenses related to that

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1 of carrying this and his attorney has made demands on me  
 2 to return the money, so whether I have liability for that  
 3 or not is still a question.  
 4 Q Have you made any efforts to sell the  
 5 property to anybody else?  
 6 A Yes.  
 7 Q What efforts have you made?  
 8 A We let people know, the realtors that I  
 9 discussed previously, let them know that we had this 26  
 10 acres and that we had it on the market and we would like  
 11 to sell it. If they would bring us a buyer, we would be  
 12 happy to pay them a commission.  
 13 I had also shown the property to a friend of  
 14 a neighbor's, who was in the horse business, horse  
 15 business in the sense of riding horses and raising horses  
 16 and things like that, he wasn't buying and selling them.  
 17 Her name was Jeannie Price, and I proposed the property  
 18 for her and she reviewed it and turned it down.  
 19 Q Did you enter into any contracts with any  
 20 relators?  
 21 A No. You asked if I entered into contracts  
 22 with relators. Because of my relationship with a number  
 23 of relators, it is kind of awkward to give a listing to  
 24 one and not to give it to others. So what I do is I will  
 25 tell three or four of them that I know, well, that this is

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1 available.  
 2 Another woman, realtor, did show the  
 3 property to a gentleman and her name was Beth Richards,  
 4 she is a realtor as well. That didn't work out, he bought  
 5 something else.  
 6 Q Do you consider that property to currently  
 7 be on the market?  
 8 A Yes.  
 9 Q Have you applied for subdivision approval  
 10 under Jackson Township's Subdivision Ordinance?  
 11 A No.  
 12 Q Why not?  
 13 A Because I don't think I need it.  
 14 Q Why do you believe that you don't need it?  
 15 A Let me consult with my attorney a second.  
 16 (Discussion held off the record.)  
 17 BY MR. SHERR:  
 18 Q Mr. Corneal, you had an opportunity to have  
 19 a conference with your attorney during our break, is there  
 20 any answers that you would like to amend or change that  
 21 you have given prior to now?  
 22 A No, it wasn't anything I wanted to amend.  
 23 What was the last question?  
 24 Q The last question was: Why have you not  
 25 submitted a plan to Jackson Township under the Jackson

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1 Township Subdivision Ordinance?  
 2 A My answer was that I didn't have to.  
 3 The reason behind that is that on the  
 4 morning of July the 7th, which just happened to work out  
 5 that way, after consulting with attorneys, I recorded the  
 6 deed from Sandy and myself to Sandy for the 26 acre tract  
 7 of ground. One of the reasons in doing that was to tender  
 8 a deed to Hewetts to mitigate our damages on the loss of  
 9 the sale.  
 10 Q So on or about July 7, 2000, you and your  
 11 wife conveyed to your wife 27 acres of this 98 acre  
 12 parcel, correct?  
 13 A 95 acres.  
 14 MS. MONTGOMERY: I object to the form.  
 15 MR. SHEER: What is your objection?  
 16 MS. MONTGOMERY: I think you repeated his  
 17 statement back incorrectly. You said conveyed and I think  
 18 he said recorded.  
 19 MR. SHERR: I am not repeating what he said,  
 20 I am just trying to --  
 21 MS. MONTGOMERY: Okay.  
 22 BY MR. SHEER:  
 23 Q What went into it?  
 24 A We did a deed from the two of us to my  
 25 wife, Sandy.

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1 Q That would have been?  
 2 A The 26 acres with the house and the barn --  
 3 Q That would have been a conveyance from you  
 4 and your wife to your wife of this 26 acres, correct?  
 5 A Exactly, right.  
 6 Q It was your belief that you had the legal  
 7 authority to do this?  
 8 A Yes. After we discovered that the Township  
 9 nor the county had a subdivision ordinance.  
 10 Q That deed was accepted for recording?  
 11 A It was.  
 12 Q Has building commenced on the property?  
 13 A Yes. I said, we started with the garage in  
 14 July of 2000.  
 15 Q Has the garage been completed?  
 16 A Yes.  
 17 Q Have you started building anything else on  
 18 the property?  
 19 A Built the art studio.  
 20 Q Has that been completed?  
 21 A Not quite completed.  
 22 Q Is that still being built as we speak?  
 23 A Yes.  
 24 Q How about a house, did you start building  
 25 that?

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1 A The house, yes.  
 2 Q Has that been completed?  
 3 A No.  
 4 Q About how much is completed of the house?  
 5 A I wouldn't know percentage-wise. Depending  
 6 on what contractor you talk to, it could be 2 months to 3  
 7 months away from or 4 months from completion.  
 8 Q That building is going on today?  
 9 A Yes, it is, I hope it is.  
 10 Q How about the driveway, has that been  
 11 completed?  
 12 A No, never had need for the driveway. Put it  
 13 all in, except the bridge, and never had need for it.  
 14 Q The bridge is not there?  
 15 A No.  
 16 Q Why not?  
 17 A Because I didn't need it.  
 18 Q Why didn't you need it?  
 19 A Because I bought the adjoining property next  
 20 to this one that had road frontage off Miller Road.  
 21 Q When did you purchase the adjoining  
 22 property?  
 23 A In I think the first of July, the end of  
 24 June of the year 2000.  
 25 Q How much did you purchase that for?

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1 A I am not sure why that is relevant.  
 2 Q How much did you purchase it for?  
 3 MS. MONTGOMERY: You can tell him, it is  
 4 public record.  
 5 A \$365,000 I think.  
 6 BY MR. SHEER:  
 7 Q Who did you purchase that from?  
 8 A Robert Gavazzi.  
 9 Q Is it still your intention as you sit here  
 10 today to sell part of the property?  
 11 A Yes, the house, the barn and 26 acres of  
 12 ground.  
 13 Q You allege that the moratorium on  
 14 development in Jackson Township was imposed in part for  
 15 the purpose of impeding your project?  
 16 A Yes.  
 17 Q What facts do you base that allegation upon?  
 18 A There were no other subdivisions. I was the  
 19 sole subdivision that was contemplated. There were no  
 20 other pending. There was no reason to put a moratorium on  
 21 one subdivision, they didn't have a rush of development.  
 22 I was a single person.  
 23 I believe, I am not totally sure of this  
 24 yet, but I believe that they had started their subdivision  
 25 draft and everything else prior to issuing a moratorium

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1 and they only issued a moratorium after I became serious  
 2 about subdividing. I think it was exclusively for my  
 3 benefit or I should say exclusively for my detriment.  
 4 Q Any other facts on which you base those  
 5 allegations?  
 6 A I think that is enough.  
 7 Q Who is James Whims, W-H-I-M-S?  
 8 A Who?  
 9 Q Do you know who James Whims, W-H-I-M-S, is?  
 10 A Himes.  
 11 Q Himes?  
 12 A H-I-M-E-S.  
 13 Q Who is that?  
 14 A That is the attorney friend of mine that I  
 15 clerked for he and his father in Huntingdon.  
 16 Q What facts do you believe he has knowledge  
 17 --  
 18 MS. MONTGOMERY: Objection.  
 19 BY MR. SHEER:  
 20 Q He was listed as somebody who has facts  
 21 concerning the allegations in this complaint in your  
 22 self-disclosure, so I am asking what facts he has  
 23 knowledge about?  
 24 MS. MONTGOMERY: I am going to caution my  
 25 client to be careful about the attorney/client privilege.

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1 Q I understand.  
 2 A I had contacted Rouzer and was told that  
 3 they needed the submission on the approved modules from  
 4 Jackson Township before they would take action on it.  
 5 Q Did you construct, along with your garage,  
 6 your art studio and your house, an on-lot sewage system?  
 7 A No.  
 8 Q Do you intend to do that?  
 9 A Yes.  
 10 Q At what point do you intend to do that?  
 11 A As soon as the spring hits and I can get  
 12 approvals.  
 13 Q Who do you believe you have to get approvals  
 14 from?  
 15 A We already submitted stuff to the Township  
 16 through Terry Williams in State College and I have had a  
 17 sewage system designed by an SEO that used to be in that  
 18 area who now comes in and does consulting. She submitted  
 19 that design of the on-site septic system, which will  
 20 function properly for its use, to Barry Parks, and he has  
 21 not acted on it in any way that I know of.  
 22 Q Do you know why he hasn't acted upon it?  
 23 A I have no idea.  
 24 Q Do you have a belief?  
 25 A Simply part of the process here to inhibit

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1 A Mr. Himes spent a great deal of time trying  
 2 to get Mr. Newton to respond to the problems that were  
 3 associated with what the Township was doing and he has  
 4 documented -- from what I understand -- he has documented  
 5 each telephone call, each meeting with Mr. Newton and the  
 6 resistance of Mr. Newton in responding.  
 7 BY MR. SHEER:  
 8 Q Any other facts which you believe he has  
 9 knowledge of?  
 10 A Facts, I don't know.  
 11 Q Who is Steven Lavitsky?  
 12 A He is the fellow from the engineering firm  
 13 that did the work.  
 14 Q That would be Blozsky?  
 15 A Right.  
 16 Q Have you had any contact with the Department  
 17 of Environmental Protection concerning the property or  
 18 your attempts to subdivide and/or build on the property?  
 19 A Direct contact with them?  
 20 Q Yes.  
 21 A I called the fellow who was in charge of  
 22 that area, I think his name was Rouzer -- come to think of  
 23 it, that is what Rouzer is, Rouzer is the guy from DEP,  
 24 and I am referring to the bottom of the Planning  
 25 Commission letter.

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1 my development of the land. There is no legitimate basis  
 2 for him refusing to act on it.  
 3 Q Do you intend to put this sewage system in  
 4 regardless of whether you get approval?  
 5 A I will not put a sewage system in without  
 6 DEP's approval. If I have to put a holding tank in, then  
 7 I will put a holding tank in; but I have no intention of  
 8 -- DEP didn't do anything wrong to me and they have a  
 9 right to pass on the availability of the sewer system that  
 10 we propose and I intend to honor that obligation to go  
 11 through them.  
 12 Q Do you believe that you have any  
 13 out-of-pocket expenses as a result of what you claim to be  
 14 the wrongful acts of the Township?  
 15 A No question about that.  
 16 Q What out-of-pocket expenses do you believe  
 17 that you have as a result of what you believe to be the  
 18 wrongful acts of the Township?  
 19 A I have the expenses related to the  
 20 engineers.  
 21 Q That would be Blozsky?  
 22 A That's right, correct.  
 23 Q Why do you believe that you had those  
 24 expenses as a result of the wrongful acts of the Township?  
 25 A Because the Township forced me to send him



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1 back out there to assess the location that their SEO put  
 2 the sewer site on.  
 3 Q So you believe that the expenses that you  
 4 would have with respect to the engineer would be only  
 5 related to the second report and not the first report?  
 6 A That's right.  
 7 Q What other out-of-pocket expenses do you  
 8 believe you have?  
 9 A Well, I lost the sale of the property to the  
 10 Hewetts.  
 11 Q Why do you believe you have out-of-pocket  
 12 expenses as a result of losing that sale?  
 13 A I have big time out-of-pocket expenses,  
 14 because the \$150,000 I was getting from that was going to  
 15 be used for construction of the property, of the  
 16 buildings. As a result of not getting that \$150,000, I  
 17 had to go to Mellon Bank and refinance the one property on  
 18 College Avenue, the 1445 West College, where I drew out a  
 19 little less than \$150,000 in equity.  
 20 I went from a 7 and a half percent interest  
 21 rate to an 8 and three-eighths percent interest rate and I  
 22 had to pay fees to them and I also got nailed with a  
 23 no-prepayment penalty, which I didn't have in my previous  
 24 contract, my financing contract with them.  
 25 So now the interest rates have dropped, I

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1 can't refinance without paying a fee, a big fee. So I  
 2 have got the difference between 8 and three-eighths  
 3 percent and 7 and a half percent on the monthly payments,  
 4 on the interest on that refinancing.  
 5 Plus, I don't know what I am going to be  
 6 able to sell the property for. So if I sell the property  
 7 at a lesser amount, obviously, then I have that loss.  
 8 Plus I also have, you know, the loss of the use of those  
 9 funds, since the Hewetts would have paid me no later than  
 10 June the 30th, which they didn't.  
 11 Q When did you refinance?  
 12 A I waited until the last possible minute,  
 13 because I was reluctant to do it; but I think I refinanced  
 14 about 3 months ago, 4 months ago.  
 15 Q Any other out-of-pocket expenses that you  
 16 believe that you suffered as a result of wrongful actions  
 17 of the Township?  
 18 A Sure, I had to send Simpson back and  
 19 redesign and redesign and resubmit these plans. Every  
 20 time he did it, there was several thousand dollars in  
 21 surveying costs and duplication and all of that.  
 22 I don't have the exact number that would be  
 23 attributable to him above and beyond his survey that I  
 24 wanted that would relate.  
 25 I can pull the bills out and identify what

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1 was necessitated by the demands of the Township and the  
 2 County Planning Commission.  
 3 Q Anything else?  
 4 A I have legal fees.  
 5 Q Legal fees associated with what?  
 6 A Associated with this lawsuit.  
 7 Q The lawsuit we are here about today?  
 8 A That's right.  
 9 Q Any other legal fees?  
 10 A I have legal fees with Terry Williams trying  
 11 to work through the DEP permitting.  
 12 Q Was that caused in some way by, that being  
 13 with Terry Williams' legal fees, caused in some way by any  
 14 act of the Township?  
 15 A Yes, the Township tried to stop me from  
 16 construction.  
 17 Q So it is your testimony that the only reason  
 18 that you retained Terry Williams' services was because the  
 19 Township tried to stop you from --  
 20 A No. That is one of the reasons I retained  
 21 him. The other reason was to try and get the DEP permits  
 22 so when we finish the construction of the properties, that  
 23 we can install the sewage systems.  
 24 Q When did you first consult with Mr.  
 25 Williams?

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1 MS. MONTGOMERY: I am going to object the  
 2 time frames.  
 3 A I don't remember when it was.  
 4 MS. MONTGOMERY: I think the time which a  
 5 person consults with their attorney --  
 6 MR. SHERR: It is not privileged, absolutely  
 7 not privileged. When he first consulted with an attorney  
 8 or if he consulted with an attorney is not privileged.  
 9 What was consulted with is privileged.  
 10 A I can't remember exactly when I started  
 11 talking to Terry about this. I would probably say 6 to 8  
 12 months ago.  
 13 BY MR. SHEER:  
 14 Q Any other out-of-pocket expenses that we  
 15 haven't discussed that you feel you suffered as a result  
 16 of the accident?  
 17 A As I said, I had to sue these people because  
 18 they wouldn't give me the applications or permits, so I  
 19 had, you know, the private service fee of 300 and some  
 20 dollars.  
 21 Q Anything else?  
 22 A Well, I would have to say that I had to  
 23 maintain a property and pay the taxes on the property that  
 24 would have been sold to Hewetts and not been my expenses  
 25 that are my expenses now.



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1 Q Anything else?  
2 (Discussion held off the record.)  
3 BY MR. SHERR:  
4 A I have now had to hire experts that I am  
5 getting reports from in the area of the Planning and  
6 Municipal Law or Application of Municipal Law, so we are  
7 paying them. We don't know exactly what those costs are  
8 going to be.  
9 If I think of any more, I will let you know.  
10 (Discussion held off the record.)  
11 BY MR. SHERR:  
12 Q You told me specifically some things that  
13 were done by Mr. Wilson and by Ms. Wirth.  
14 I just want to ask you with respect to the  
15 other individual defendants, and I am going to start with  
16 Mr. Yoder, other than being at Township meetings that you  
17 were also at, did you have any dealings with Michael  
18 Yoder?  
19 A The dealings I had with him, as well as Mr.  
20 Weiler, both of them, I talked to directly at the Township  
21 meetings and I told them, you can't do this stuff. They  
22 all unanimously agreed that they are going to do it  
23 whether I liked it or not and that is too bad. That kind  
24 of response was given to me.  
25 Q Other than any contact which you had with

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1 you agree, yes, that is right, we are not doing it. So  
2 that is the contact I have had with them.  
3 Also, the exception, that from what I  
4 understand from my discussion with Van Domlin, that these  
5 guys were meeting out of formal meetings to discuss me and  
6 how they were going to treat me.  
7 Specifically, Van Domlin said that the  
8 Township supervisors were meeting that Friday morning to  
9 discuss me and what they are going to do about my request  
10 for applications for building permits.  
11 So I can only take from that that they, in  
12 fact, did meet or have met on several occasions, at least  
13 one occasion that I am pretty sure occurred, outside of a  
14 formal meeting to discuss Township business, specifically,  
15 preventing me from building.  
16 MR. SHEER: I have no other questions at  
17 this time. Thank you very much.  
18 MS. THORP: I have no questions.  
19 MS. SIMPSON: I have a few questions.  
20  
21 CROSS-EXAMINATION  
22  
23 BY MS. SIMPSON:  
24 Q At the February 2000 Jackson Township  
25 supervisor meeting where you presented your plan, was

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1 Mr. Yoder at a Township meeting, did you have any contact  
2 with him otherwise?  
3 A No.  
4 Q Same question for Ralph Weiler, did you have  
5 any contact with Mr. Weiler at any other time, other than  
6 at a Township meeting?  
7 A No.  
8 Q Can you tell me anything that Mr. Yoder  
9 specifically said at a Township meeting with respect to  
10 your attempts to subdivide and build on this property?  
11 A He said they had a moratorium on -- both of  
12 these guys said this -- we have a moratorium on --  
13 Q Both of these guys, just so we are clear,  
14 that is Mr. Yoder and Mr. Weiler?  
15 A Right. Said at different times at different  
16 meetings that you aren't getting what you want, because we  
17 got a moratorium on and we are not going to allow you to  
18 do this.  
19 Then when I came up that I don't care about  
20 the subdivision at this moment in time, give me my sewer  
21 modules, then they all agreed that, no, that was a  
22 subdivision under DEP and, therefore, we are not going to  
23 sign your sewer modules under that.  
24 So all three of them said it at one point or  
25 another or concurred, you know, they turned to each other,

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1 Larry Newton present?  
2 A Excuse me, offered my plan.  
3 Q Offered you plan, sorry.  
4 A That is okay, I just wanted to clarify.  
5 Q Was Larry Newton present?  
6 A No.  
7 Q Was Attorney Newton present at the March  
8 2000 supervisor's meeting?  
9 A No. However, as a result of the February  
10 meeting, I sent Mr. Newton a letter indicating to him the  
11 wrongfulness of their conduct and the fact that it was  
12 going to affect my contract with Hewetts or potentially  
13 could affect the contract with Hewetts and that would be,  
14 please, contact me and follow up with this to discuss  
15 correcting the problem.  
16 Then I also followed up with many telephone  
17 calls to Mr. Newton, all of which went unanswered. That I  
18 can remember, he never returned a telephone call that I  
19 made to him.  
20 He took one of my telephone calls that I  
21 made to him; but that was the only time I ever discussed  
22 things with him.  
23 Q What did you discuss in that call?  
24 A I was talking to him about the sewer modules  
25 at that point, that was after the March meeting.

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1 I said, I have got approvals of your SEO, I  
 2 have got signatures on the sewer modules. There is  
 3 absolutely no reason for the Township not to sign them and  
 4 something has to be done.

5 His response was the same, I will get back  
 6 to you. Never called me back, never did a thing about  
 7 it. I will check into it and get back to you.

8 Same way when I had the situation with Van  
 9 Domlin where they wouldn't even give me applications. I  
 10 wrote Larry a letter the day afterwards and I sent him a  
 11 copy of the letter I sent to Van Domlin.

12 I said in the letter to Van Domlin, hey, if  
 13 you don't agree with anything I said in this letter,  
 14 please, respond in writing. He never responded in  
 15 writing, neither did Larry. Larry did absolutely nothing  
 16 to correct a problem.

17 Then his partner in law was the one who  
 18 wrote the letter and said on May the 1st, hey, it is  
 19 obvious you are not going to get subdivision approval, so  
 20 the Hewetts, my clients are cancelling the contract. Now,  
 21 where would he have heard that?

22 Q Who is Larry Newton's partner?

23 A Harvey Reeder. They own a building and  
 24 share office space together, whether they are truly  
 25 partner/partner, I don't know, but they have the same fax

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1 A Because he was the Township solicitor, he  
 2 was the guy giving them advice to put the moratorium on.

3 Q How do you know that?

4 A Because they told me at the meeting. They  
 5 said, well, according to our attorney.

6 Q What did they say specifically?

7 A Like I just said, I said, you can't have a  
 8 moratorium like you have. They said, Not according to our  
 9 attorney.

10 Q So I understand this, the supervisors said  
 11 that their attorney told them that the moratorium was okay  
 12 or that their attorney told them to put a moratorium in  
 13 place?

14 A I have no idea what their attorney told  
 15 them.

16 Q What did they tell you?

17 A I just said what they told me, not according  
 18 to my attorney.

19 Q In response to what?

20 A I said your moratorium is illegal, it is  
 21 improper, you can't do it. They said, Not according to my  
 22 attorney.

23 But then I followed later on with -- or  
 24 tried to follow up with Larry to even get a copy of the  
 25 resolution passing the moratorium and he wouldn't give it

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1 machine, the same fax number, same secretary, the same  
 2 everything. Sounds like a partner.

3 Q How do you know they have the same  
 4 secretary?

5 A Because I called them, I called them  
 6 numerous time, always got the same woman, You want Larry  
 7 or you want Harvey? I say that as an assumption, I don't  
 8 know it for a fact.

9 Q Is it also an assumption that Mr. Reeder  
 10 learned of the difficulties with the approval process from  
 11 Mr. Newton?

12 A Yes, that is correct, I have no direct  
 13 knowledge of that.

14 Q What duty did you believe Mr. Newton had to  
 15 you?

16 MS. MONTGOMERY: Objection, you are asking  
 17 him for a legal conclusion, it is not appropriate.

18 MS. SIMPSON: I will rephrase it.

19 BY MS. SIMPSON:

20 Q Do you believe Mr. Newton owed you some  
 21 response to your inquiries?

22 A He sure did.

23 Q Why?

24 A Why?

25 Q Yes.

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1 to us and that is where Jim Himes had call after call,  
 2 meeting after meeting, trying to get the information from  
 3 him.

4 The same way with permits. I said, I want a  
 5 building permit, application. And he stonewalled me on  
 6 it, totally stonewalled me on it.

7 Then finally, in the end of August, he wrote  
 8 me a letter and said, Oh, so sorry that we haven't sent  
 9 you this, here it is.

10 Q What was it that you obtained at the end of  
 11 August?

12 A An application for a building permit.

13 Q What did you do with those?

14 A I filled them out immediately and sent them  
 15 with everything they required, including their fees.

16 Q Then what happened?

17 A Nothing. They sat on it for 45 days. Then  
 18 Van Domlin wrote me a letter saying, you don't comply with  
 19 our subdivision ordinance -- which, of course, I wasn't  
 20 asking for at that point -- so, therefore, we are denying  
 21 your building permits.

22 So then we filed under their rules to have a  
 23 hearing about his denial within 30 days. They are  
 24 supposed to give me a hearing within 30 days. Do you know  
 25 how that hearing came out, there was none.

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1 Q What happened?  
 2 A Nothing. Absolutely nothing. They ignored  
 3 me.  
 4 Q You submitted a request for hearing?  
 5 A Uh-huh, in writing.  
 6 Q You got no response to that?  
 7 A Right.  
 8 Q Who was that filed with?  
 9 A That was filed with the Township secretary.  
 10 Under their ordinance, they are supposed to have a  
 11 hearing.  
 12 Q Of the damages that you have outlined, are  
 13 there any that are specifically attributable to the  
 14 conduct of Attorney Newton?  
 15 A Yes, I lost a contract.  
 16 Q By that contract you are talking about the  
 17 contract for the sale of the property to Hewett and Smith?  
 18 A Smith.  
 19 Q Specifically, what is it that you believe  
 20 that Mr. Newton did to cause you to lose that contract?  
 21 A I think that he had involvement with the --  
 22 with his partner there, Harvey Reeder, to interfere with  
 23 my contractual relationships with the Hewetts. They  
 24 cancelled the contract.  
 25 Read Reeder's letter, he says, "It is

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1 obvious you are not going to get your approvals by the  
 2 June 30." He is writing that May 1st, 2 months  
 3 previously. It is obvious you are not going to get  
 4 approvals for your subdivision, therefore, my clients are  
 5 cancelling the contract.  
 6 Q Aside from this belief that you formed from  
 7 the text of the letter that was sent to you, what evidence  
 8 do you have that Mr. Newton spoke with Mr. Reeder about  
 9 the approval process and its --  
 10 A I don't have evidence with regard to that  
 11 but it certainly seems rather obvious. They say if it  
 12 walks like a duck and talks like a duck, it probably is a  
 13 duck.  
 14 Q Was the meeting that you attended of the  
 15 Township supervisors in February of 2000 recorded in any  
 16 way?  
 17 A How they record their meetings, I don't  
 18 know, I don't remember seeing a tape recording or whether  
 19 the secretary was taking notes. One of the two was  
 20 occurring, I don't know exactly what.  
 21 Q Have you ever searched the record of the  
 22 Township to check the minutes of the meetings that you  
 23 attended?  
 24 A The Township doesn't have an office, so,  
 25 therefore, there is no records available that I know of.

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1 The records that we asked for were records  
 2 asked of Newton to deliver to us and it went for months  
 3 and months and months and he refused to -- or just ignored  
 4 delivering the records.  
 5 Q What records did you ask him to deliver?  
 6 A I asked him specifically for the resolution  
 7 authorizing the moratorium.  
 8 Q Did you ever ask anybody for minutes of  
 9 meetings?  
 10 A I didn't. I think Jim Himes did, but I  
 11 don't know. The minutes of those meetings that I saw, if  
 12 they are like the January minutes, were less than a half a  
 13 page long or a third of a page.  
 14 As I said, they only hold meetings for 15 or  
 15 20 minutes.  
 16 Q That was your experience?  
 17 A That was my experience in going to two  
 18 meetings and seeing the January notes of the minutes of  
 19 that meeting.  
 20 MS. SIMPSON: I have no other questions.  
 21 MR. SHERR: I have no questions.  
 22 (Discussion held off the record.)  
 23 MR. SHERR: We have had a discussion off the  
 24 record concerning Mrs. Corneal, who has sat through this  
 25 deposition today and who I did notice as a party to the

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1 lawsuit.  
 2 I believe our agreement is that I will be  
 3 informed through discovery the belief or the necessity to  
 4 have Mrs. Corneal testify or that she has matters which  
 5 she has independent knowledge about and then we will  
 6 reschedule her deposition.  
 7 I don't know if I stated that artfully, but  
 8 you can probably help me out.  
 9 MS. MONTGOMERY: That is not quite the  
 10 agreement.  
 11 The agreement is that, although, you noticed  
 12 them both for today and they both came today, this was a  
 13 very long deposition and nobody wants to stay any longer.  
 14 We will reproduce her on another day, we are  
 15 not going to stonewall you on that.  
 16 We will not agree, as you suggested, that  
 17 she wouldn't testify, we won't agree to that. She is  
 18 listed as a witness in our initial disclosures. I think  
 19 you have to make an independent judgment whether or not  
 20 you want to depose her.  
 21 MR. SHERR: I will do that. All I am saying  
 22 is in order to avoid inconveniencing her and rather than  
 23 just noticing her again and bringing her back, if there is  
 24 some reason for her deposition, perhaps you can inform me  
 25 of that or that she would have knowledge that a deposition

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1 may be necessary. I guess what I am saying is if you give  
 2 me some reason to do it, I will do it, otherwise, I won't  
 3 do it. I understand that you don't want to commit either  
 4 way.  
 5 MS. MONTGOMERY: She is listed as a  
 6 potential witness, listed as a person with information.  
 7 How much information might be very small. We don't know  
 8 how this case is going to develop. With all due respect,  
 9 it is not my job to figure out who you want to depose. I  
 10 don't want to say anything that limits my ability to her  
 11 as a witness and ask her anything I want when we get  
 12 there.  
 13 MR. SHERR: I am not asking you to limit  
 14 that. It is no skin off my nose to depose her or not  
 15 depose her, I could care less; except that I don't see the  
 16 need to inconvenience her if the deposition is unnecessary  
 17 is the issue.  
 18 MS. MONTGOMERY: Understood.  
 19 (The deposition concluded at 4:35.)  
 20  
 21  
 22  
 23  
 24  
 25

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1 STATE OF PENNSYLVANIA : ss.  
 2 COUNTY OF DAUPHIN :  
 3  
 4 I, Patricia C. Barrett, a Reporter  
 5 Notary-Public, authorized to administer oaths within and  
 6 for the Commonwealth of Pennsylvania and take depositions  
 7 in the trial of causes, do hereby certify that the  
 8 foregoing is the testimony of David B. Corneal.  
 9 I further certify that before the taking of  
 10 said deposition, the witness was duly sworn; that the  
 11 questions and answers were taken down stenographically to  
 12 the best of my ability by the said reporter Patricia C.  
 13 Barrett, a Reporter Notary-Public, approved and agreed to,  
 14 and afterwards reduced to typewriting under the direction  
 15 of the said Reporter.  
 16 I further certify that the proceedings and  
 17 evidence contained fully and accurately in the notes by me  
 18 on the within deposition, and that this copy is a correct  
 19 transcript of the same.  
 20 In testimony whereof, I have hereunto  
 21 subscribed my hand this 16th day of March 2001.  
 22  
 23 Patricia C. Barrett, Reporter  
 24 My commission expires:  
 25 May 13, 2003

WIRTH, ANN  
05/16/01

CORNEAL VS  
JACKSON TOWNSHIP

DEFENDANT'S  
EXHIBIT

4

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
3     DAVID B. CORNEAL and SANDRA     :  
4     Y. CORNEAL,                         :  
5     PLAINTIFFS                         :  
6   :  
7                   VS                     :  
8   :  
9     JACKSON TOWNSHIP, HUNTINGDON     :  
10    COUNTY, PENNSYLVANIA; W.       :  
11    THOMAS WILSON, individually     :  
12    and in his official capacity     :  
13    as Supervisor of Jackson         :  
14    Township; MICHAEL YODER,         :  
15    individually and in his           :  
16    official capacity as             :  
17    Supervisor of Jackson            :  
18    Township; RALPH WEILER,          :  
19    individually and in his           :  
20    official capacity as             :  
21    Supervisor of Jackson            :  
22    Township; BARRY PARKS,           :  
23    individually and in his           :  
24    official capacity as Sewage       :  
25    Enforcement Officer of           :  
26    Jackson Township; DAVID          :  
27    VAN DOMMELEN, individually       :  
28    and in his official capacity     :  
29    as Building Permit Officer;      :  
30    ANN L. WIRTH, individually       :  
31    and in her official capacity     :  
32    as Secretary of Jackson          :  
33    Township; and LARRY NEWTON,      :  
34    individually and in his           :  
35    official capacity as             :  
36    Solicitor to Jackson             :  
37    Township,                         :  
38                   DEFENDANTS           :  
39                   DEPOSITION OF:     ANN WIRTH  
40                   TAKEN BY:          PLAINTIFFS  
41                   BEFORE:           TERESA K. BEAR, REPORTER  
42                                       NOTARY PUBLIC  
43                   DATE:              MAY 17, 2001, 9:10 A.M.  
44                   PLACE:             ECKERT SEAMANS  
45                                       213 MARKET STREET  
46                                       HARRISBURG, PENNSYLVANIA

**WIRTH, ANN**  
**05/16/01**

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**JACKSON TOWNSHIP**

<p style="text-align: right;">2</p> <p>1 APPEARANCES:  2 ECKERT SEAMANS  3 BY: BRIDGET E. MONTGOMERY, ESQUIRE  4 LESLIE A. MALADY, ESQUIRE  5 FOR - PLAINTIFFS  6 MAYERS, MENNIES &amp; SHERR, LLP  7 BY: ANTHONY R. SHERR, ESQUIRE  8  9 FOR - ALL DEFENDANTS EXCEPT NEWTON  10  11 THOMAS, THOMAS &amp; HAFFER, LLP  12 BY: MICHELE J. THORP, ESQUIRE  13 FOR - DEFENDANT - RALPH WEILER  14 METTE, EVANS &amp; WOODSIDE  15 BY: JENNIFER YANKANICH, ESQUIRE  16  17 FOR - DEFENDANT - LARRY NEWTON  18  19 ALSO PRESENT:  20  21 DAVID B. CORNEAL  22  23  24  25</p>	<p style="text-align: right;">4</p> <p>1 ANN WIRTH, called as a witness, being sworn,  2 testified as follows:  3  4 DIRECT EXAMINATION  5  6 BY MS. MONTGOMERY:  7 Q Would you state your name for the record.  8 A Ann Wirth.  9 Q I think we met briefly yesterday. I'm Bridget  10 Montgomery and as you probably know I represent the Corneals  11 in this action. I'm going to take your deposition today.  12 Have you ever been deposed before?  13 A No.  14 Q I'm going to give you just a few of the ground  15 rules. Probably the first and most important one is for the  16 benefit of the court reporter. If you could keep your voice  17 up --  18 A Okay.  19 Q -- and give her verbal responses, yeses or  20 noes. You can't do shakes of the head or anything because  21 she can't hear that and she can't take that down. We also  22 have to try and let each other finish our sentences. So if  23 I'm asking a question, just try to wait until I'm finished  24 and then I'll try to wait until you're finished with your  25 answer to start talking because she can't take down two</p>
<p style="text-align: right;">3</p> <p>1 TABLE OF CONTENTS  2 WITNESS  3 FOR PLAINTIFFS DIRECT CROSS REDIRECT RECROSS  4 Ann Wirth 4 -- 244 --  5 By Ms. Montgomery -- 211 -- 251  6 EXHIBITS  7 WIRTH EXHIBIT NO. PRODUCED AND MARKED  8 1 - Notice 49 50  9 2 - Subdivision and land  10 development ordinance  11 3 - Application for building permit 62  12 4 - Minutes dated 7/10/00 64  13 5 - Minutes dated 2/7/00 81  14 6 - Minutes dated 1/4/00 90  15 7 - Minutes dated 4/3/00 102  16 8 - Order 112  17 9 - Subdivision reviewed by HCPC 114  18 10 - Letter dated 4/20/00 138  19 11 - Letter dated 2/24/00 139  20 12 - Letter dated 11/10/00 184  21 13 - Letter dated 10/10/00 187  22 14 - Packet of documents 191  23 15 - Letter dated 5/5/00 210  24 16 - Letter dated 1/31/00 247  25 17 - Letter dated 7/28/00 249</p>	<p style="text-align: right;">5</p> <p>1 people at once, okay.  2 If there's anything that you don't understand  3 about any question that I ask you, you should feel free to  4 ask me to repeat it. I want you to understand my question  5 and I want you to be able to give me the best, clearest  6 answer possible. So you shouldn't be shy about that at all  7 if you don't understand it, okay?  8 A Okay.  9 Q If you are in need of a break, you know, to  10 use the ladies room or whatever, just to stretch your legs,  11 you're free to ask for that as well. We do want you to be  12 comfortable. I'm not sure how long we'll be here, but I  13 want you to be comfortable while you are here. If you need  14 a glass of water, a cup of coffee, just get up and get it,  15 okay?  16 A Okay.  17 Q Is there any reason why you couldn't give a  18 deposition today and understand questions and give clear  19 answers in return? For instance, are you on any sort of  20 medication or anything like that?  21 A No.  22 Q Have you ever been a party to a lawsuit  23 before?  24 A No.  25 Q Have you discussed the substance of your</p>



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<p style="text-align: right;">6</p> <p>1 deposition or intended deposition testimony with anyone?</p> <p>2 A I don't know what you mean. You mean what I</p> <p>3 -- what you want me to say or what somebody wanted me to</p> <p>4 say?</p> <p>5 Q Yes.</p> <p>6 A No.</p> <p>7 Q Not with anybody at all?</p> <p>8 MR. SHERR: I'm going to object to the form of</p> <p>9 the question and exclude from that any conversations she had</p> <p>10 with her attorney.</p> <p>11 MS. MONTGOMERY: Okay.</p> <p>12 BY MS. MONTGOMERY:</p> <p>13 Q Other than your counsel, have you discussed --</p> <p>14 A No.</p> <p>15 Q You have not talked about the fact that you</p> <p>16 will be deposed? You have not talked about that with the</p> <p>17 supervisors at all?</p> <p>18 A Oh, we've all talked about being deposed</p> <p>19 but --</p> <p>20 Q And what was the nature of those</p> <p>21 conversations?</p> <p>22 A I don't know what you're asking me.</p> <p>23 Q Well --</p> <p>24 A Just that we have to come and tell the truth</p> <p>25 and say whatever has happened, that's all.</p>	<p style="text-align: right;">8</p> <p>1 that. I'm going to instruct her not to answer --</p> <p>2 BY MS. MONTGOMERY:</p> <p>3 Q When were you first asked --</p> <p>4 MS. MONTGOMERY: Are you instructing your</p> <p>5 witness not to answer that question?</p> <p>6 MR. SHERR: To the extent the request came</p> <p>7 from me, yes.</p> <p>8 MS. MONTGOMERY: Well, she didn't have to tell</p> <p>9 me who it came from.</p> <p>10 BY MS. MONTGOMERY:</p> <p>11 Q Were you asked by anybody at any time prior to</p> <p>12 -- let me back up a second. Were you asked by anybody at</p> <p>13 any time, and I'm not asking you who, to search for</p> <p>14 documents in connection with this lawsuit last September,</p> <p>15 September of 2000?</p> <p>16 MR. SHERR: Again, I'm going to object to the</p> <p>17 extent that any request came from me. Other than anything</p> <p>18 from your attorney, you may answer that.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MS. MONTGOMERY:</p> <p>21 Q You weren't asked by anybody, not one single</p> <p>22 soul?</p> <p>23 A No.</p> <p>24 Q When is the first time that anybody -- and I'm</p> <p>25 not asking you who asked you to look for documents, but when</p>
<p style="text-align: right;">7</p> <p>1 Q Who have you discussed it with exactly?</p> <p>2 MR. SHERR: Again, other than your -- other</p> <p>3 than --</p> <p>4 BY MS. MONTGOMERY:</p> <p>5 Q Other than your attorney Mr. Sherr.</p> <p>6 MR. SHERR: -- your attorney.</p> <p>7 THE WITNESS: Probably my husband, who is my</p> <p>8 sounding board for a lot of things and is not involved in</p> <p>9 anything at all.</p> <p>10 BY MS. MONTGOMERY:</p> <p>11 Q Among the supervisors who have you talked to?</p> <p>12 A Probably everybody.</p> <p>13 Q In connection with this litigation, have you</p> <p>14 performed a search for documents?</p> <p>15 A Yes, I did.</p> <p>16 Q When did you do that?</p> <p>17 A Last week.</p> <p>18 Q When were you first asked to do that?</p> <p>19 MR. SHERR: I'm going to object to the form of</p> <p>20 the question to the extent she was asked by her attorney</p> <p>21 because it's privileged. Don't answer with respect to</p> <p>22 anything -- conversations that we had.</p> <p>23 MS. MONTGOMERY: That's not a privileged</p> <p>24 question.</p> <p>25 MR. SHERR: Well, we'll let the court decide</p>	<p style="text-align: right;">9</p> <p>1 was the first time anybody asked you to look for documents</p> <p>2 in connection with this lawsuit?</p> <p>3 MR. SHERR: I'm going to object again based on</p> <p>4 privilege and instruct you not to answer with respect to any</p> <p>5 conversation --</p> <p>6 MS. MONTGOMERY: I haven't asked you what</p> <p>7 your --</p> <p>8 MR. SHERR: Please. With respect to any</p> <p>9 conversations that you had with your attorney.</p> <p>10 MS. MONTGOMERY: Are you instructing your</p> <p>11 witness not to tell me whether anybody -- not identifying</p> <p>12 that person, but whether -- you're instructing her not to</p> <p>13 tell me whether anybody, without identifying who it was,</p> <p>14 asked her for documents? Is that your instruction?</p> <p>15 MR. SHERR: I made my objection.</p> <p>16 MS. MONTGOMERY: But you need to make it very</p> <p>17 clear because when I take this to the court I want to be</p> <p>18 able to tell the court exactly what you told your witness</p> <p>19 not to say.</p> <p>20 MR. SHERR: Let me make it really clear.</p> <p>21 MS. MONTGOMERY: Okay.</p> <p>22 MR. SHERR: I'm instructing the witness not to</p> <p>23 answer with respect to conversations she had with her</p> <p>24 attorney.</p> <p>25 MS. MONTGOMERY: Okay, thank you.</p>

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<p style="text-align: right;">10</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q Have any of the supervisors asked you to look</p> <p>3 for documents in connection with this lawsuit?</p> <p>4 A No.</p> <p>5 Q Has anybody other than your attorney asked you</p> <p>6 to look for documents in connection with this lawsuit?</p> <p>7 A No.</p> <p>8 MR. SHERR: That you can answer.</p> <p>9 THE WITNESS: No, no.</p> <p>10 BY MS. MONTGOMERY:</p> <p>11 Q And so when is the first time that you</p> <p>12 actually looked for documents in connection with this</p> <p>13 lawsuit?</p> <p>14 MR. SHERR: Objection, privileged. I'm going</p> <p>15 to instruct the witness not to answer.</p> <p>16 MS. MONTGOMERY: What?</p> <p>17 BY MS. MONTGOMERY:</p> <p>18 Q When was the first time that you actually</p> <p>19 looked for documents in connection with this lawsuit?</p> <p>20 MR. SHERR: Objection, asked and answered.</p> <p>21 You can answer the question. You can answer.</p> <p>22 THE WITNESS: Okay. Last week.</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q And what did you do in looking for documents?</p> <p>25 A I got a request, something that said request,</p>	<p style="text-align: right;">12</p> <p>1 A No.</p> <p>2 Q -- privilege?</p> <p>3 A No.</p> <p>4 Q Do you know whether any documents were</p> <p>5 withheld based on privilege?</p> <p>6 A No.</p> <p>7 Q You don't know?</p> <p>8 A No, I don't know.</p> <p>9 Q Did the supervisors review the documents that</p> <p>10 you sent out?</p> <p>11 A No.</p> <p>12 Q So you handled completely the document</p> <p>13 production?</p> <p>14 A Right.</p> <p>15 Q Did you ask for any assistance from anybody in</p> <p>16 handling the document production?</p> <p>17 A No.</p> <p>18 Q Did you talk to anybody about anything or did</p> <p>19 you talk to other people? Did you say do you know where</p> <p>20 this document is or anything like that?</p> <p>21 A No.</p> <p>22 Q Well, let's talk about how documents are kept</p> <p>23 on behalf of the township. How are they kept, just</p> <p>24 generally tell me?</p> <p>25 A In a file cabinet.</p>
<p style="text-align: right;">11</p> <p>1 and I put together all the documents that I could put</p> <p>2 together on that list.</p> <p>3 Q Is that the first time you got that request,</p> <p>4 the written request?</p> <p>5 A I'm not really sure of that. I'm not really</p> <p>6 sure of that.</p> <p>7 Q You don't know if last week was the first time</p> <p>8 you ever looked at it?</p> <p>9 A I don't know that for sure, when that came to</p> <p>10 me. I really don't.</p> <p>11 Q Well, let's try and narrow it down a little</p> <p>12 bit. Did it come to you within the last month?</p> <p>13 A You're asking me during tax season so it's</p> <p>14 kind of a hard thing for me to pinpoint when I got that. I</p> <p>15 don't know.</p> <p>16 Q Did it come to you last year?</p> <p>17 A Oh, no.</p> <p>18 Q It didn't come to you in the year 2000?</p> <p>19 A No, I know that.</p> <p>20 Q So what did you go about doing in attempting</p> <p>21 to look for documents in response to that request?</p> <p>22 A I went down the list and I accumulated what</p> <p>23 was on that list that I could provide you from my office</p> <p>24 with. That's what I did.</p> <p>25 Q Did you withhold any documents based on --</p>	<p style="text-align: right;">13</p> <p>1 Q How big?</p> <p>2 A Four drawers, there's two.</p> <p>3 Q Do you have documents --</p> <p>4 A In a binder for the land ordinances.</p> <p>5 Q In a binder? And a binder or in a binder did</p> <p>6 you say?</p> <p>7 A In a binder.</p> <p>8 Q So there's binders in the file cabinets?</p> <p>9 A There's a binder on top of the file cabinet.</p> <p>10 Q Plus there's documents inside the file</p> <p>11 cabinet, correct?</p> <p>12 A Yes.</p> <p>13 Q Do you have documents that are retained only</p> <p>14 on computer?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q Did you look on the computer for any documents</p> <p>17 that might be there that might be related to the document</p> <p>18 request that was sent to you?</p> <p>19 A I don't have any documents on the computer.</p> <p>20 Q Do you have a computer?</p> <p>21 A I shouldn't -- oh, yeah.</p> <p>22 Q I'm sorry?</p> <p>23 A I have a computer. We have two computers --</p> <p>24 well, we have a computer.</p> <p>25 Q You started to say I shouldn't.</p>

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1 A The -- the ordinance is on the computer, but I  
2 didn't get it off the computer.  
3 Q Do you maintain correspondence on the computer  
4 at all?  
5 A We don't write very many letters so there's  
6 just -- there's nothing on the computer except that and the  
7 accounting.  
8 Q What about the minutes?  
9 A And the minutes are on there.  
10 Q So the minutes are --  
11 A Yeah, the minutes are on there, correct.  
12 You're right.  
13 Q Anything else at all on the computer that you  
14 can think of?  
15 A Yeah, there's -- PennDOT now has put out a  
16 disk that we have that we can put out our liquid fuel forms  
17 and that sort of thing and that's on the computer.  
18 Q Do you maintain disks at all?  
19 A No.  
20 Q So you have a hard drive?  
21 A Yes.  
22 Q Everything is kept on the hard drive, nothing  
23 is copied off on separate disks?  
24 A Only to backup.  
25 Q So you maintain backup files?

15

1 A Oh, yeah.  
2 Q Do you know whether you have correspondence or  
3 other documents on backup?  
4 A I backup my computer all the time so  
5 everything is there. I back it up from front to back and  
6 it's there.  
7 Q Well, just to be clear on your answer, because  
8 I'm not sure I heard it correctly, did you actually do a  
9 search of your computer files, whether on the computer or on  
10 backup to see whether or not there was anything available  
11 that would be responsive to the document requests that were  
12 given to you?  
13 A No.  
14 Q Are there documents related to township  
15 business that are kept anywhere else besides the township  
16 office where you work?  
17 A I don't know what kind of documents you're  
18 talking about.  
19 Q Any documents related to township business in  
20 any way.  
21 A Yes.  
22 Q And where is that?  
23 A The building permits are not kept in-house.  
24 Q Did you look -- where are they kept?  
25 A David Van Dommelen has them.

16

1 Q Where does he keep them?  
2 A In his home.  
3 Q Did you ask him to give you the building  
4 permits?  
5 A I -- I asked him for a list of the building  
6 permits and that's what I gave you.  
7 Q But I thought you said you didn't ask anybody  
8 to help you in connection with the document production?  
9 A No, I only asked to get the information. I  
10 didn't ask anybody to look it up for me. I just -- I must  
11 have misunderstood what you meant. I simply asked David to  
12 give me his list of all the building permits. I did the  
13 same thing with the county. So if I misunderstood what you  
14 said, I'm sorry. I did the same thing with the county.  
15 Q That's okay. I mean, if you misunderstood,  
16 then we'll just clear it up. So my question was: Did you  
17 talk to anybody in connection with performing this  
18 collection of documents?  
19 A Yes, I did then.  
20 Q And who did you talk to?  
21 A I talked to David Van Dommelen and I asked him  
22 to give me a list. I did not ask him for the permits  
23 because they're cumbersome. I did ask him for a list of all  
24 permits that were issued from -- I think you said June '99  
25 to present and he did do that. And then I talked to Richard

17

1 Stahl and I asked him to give me a list of every one that  
2 went into the county to be reviewed from whenever and he  
3 sent me a list of everything that's ever been in there.  
4 Q And you provided both of those lists to us?  
5 A Yes, I did.  
6 Q To your attorney anyway.  
7 A And to you. They were here yesterday. I saw  
8 them.  
9 Q When you say that the building permits are too  
10 cumbersome, why are they too cumbersome? Can you describe  
11 that for me?  
12 A Well, I -- I have to take -- you have to  
13 understand I'm the only person that does this, okay. So I  
14 had to go -- I'd have to go get them and copy --  
15 applications I would have had to copy. We don't have copies  
16 of the building permits, okay, just the applications, is all  
17 I would have. And I would have to go since 1999 and copy --  
18 get David's book and copy it in my -- in the office or take  
19 it somewhere.  
20 Q Does David keep them in a binder or something?  
21 A I really don't know.  
22 Q So the applications are what, one page, two  
23 page --  
24 A I have no idea because I don't do that.  
25 Q So when you issue a building permit -- when

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1 the township issues a building permit, you don't keep a copy  
2 of the permit?

3 A No, I don't.

4 Q Does anybody keep a copy of the permit?

5 A You'll have to ask David that. I don't  
6 actually know what he has in that -- in his files. I know  
7 he keeps a list which he provides to the supervisors and  
8 that's why I asked for that.

9 Q So what you sent us was a list of permits --

10 A That were issued.

11 Q That were issued?

12 A Right.

13 Q Did you send us a list of applications for  
14 permits?

15 A That's the same. I don't think there's any  
16 difference, but you'll have to ask David that.

17 Q And you don't think there's any difference  
18 why?

19 A I don't know. I honestly don't know. You'll  
20 have to ask David that. I don't know what he does. That's  
21 not under me.

22 Q So then you talked to Richard Stahl to get  
23 what from him?

24 A I asked him to give us a list of permits -- or  
25 of subdivisions that we have submitted to him, just a list,

20

1 sends them back. They might keep them for three or four  
2 years and then they send them back, but I didn't talk to  
3 either one of them.

4 Q So you didn't ask Barry Parks what documents  
5 he has in connection with --

6 A No, I did not.

7 Q Is there any reason why you didn't ask Barry  
8 Parks for his documents?

9 A I didn't know I was supposed to do that.

10 Q Any other documents that are maintained  
11 outside the township office?

12 A I can't think of any.

13 Q Well, if you think of any, please feel free to  
14 tell me during the course of this deposition, or tell your  
15 counsel and he can tell me later if you don't think of it  
16 during the course of the deposition, okay?

17 A Okay.

18 Q Now, going back to the documents that you did  
19 produce, you said all the documents are kept in one file, in  
20 one file cabinet that's three or four drawers?

21 A No, we have two file cabinets.

22 Q Is that it? Is there any other, you know,  
23 sort of nooks and crannies or storage buildings on township  
24 property that --

25 A Oh, yeah, we have old documents. Are you

19

1 to show that we were sending everything in there. And he  
2 did send me a completed list of -- they must keep track of  
3 them when they come in in that routine and that's what he  
4 sent.

5 Q Anybody else?

6 A No, those are the only two places I requested  
7 anything.

8 Q Did you look anywhere outside the township  
9 offices --

10 A No.

11 Q -- for anything?

12 A No.

13 Q You didn't look at documents anywhere else?

14 A No.

15 Q You said that the building permits and  
16 applications are kept by Van Dommelen, correct?

17 A Right.

18 Q Are there any other documents that are  
19 maintained outside the township office relating to township  
20 business?

21 A The sewage documents, Barry keeps them till  
22 he's done with -- till he has completed the project and then  
23 he sends them into the township.

24 Q That's Barry Parks?

25 A Barry Parks. And also DEP keeps them and then

21

1 talking current or ancient documents?

2 Q Really I'm just trying to get a general  
3 picture of your document retention.

4 A Current items are in the office. Old items  
5 are in the township building. And I honestly cannot tell  
6 you what's there and I don't go there because there's snakes  
7 in there and I don't go there. I can tell you that. I  
8 won't go there.

9 Q What do you mean by current documents?

10 A Well, things that -- I've been on for six  
11 years. Everything since I've been on is in my office.

12 Q Is it in those two file cabinets you referred  
13 to?

14 A Yes, and then in an extra storage box.

15 Q And that storage box is where?

16 A In my office.

17 Q Did you look in that storage box in connection  
18 with this document request?

19 A No, because those things were before I was on  
20 the -- on -- they weren't involving this time frame.

21 Q So they are documents prior to --

22 A 1996.

23 Q So that's the storage box and what else?

24 A That's it.

25 Q No attic or anything like that?

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22

1 A No.  
 2 Q Let's talk a little bit about you and your  
 3 background. Where do you live?  
 4 A I live on Scare Pond Road.  
 5 Q And where is that?  
 6 A Petersburg, R.D. 1.  
 7 Q Is that -- how do you spell that, Scare Pond?  
 8 A S-c-a-r-e, P-o-n-d.  
 9 Q And that's within Jackson Township?  
 10 A Yes.  
 11 Q Tell me a little bit about your educational  
 12 background.  
 13 A I have -- I graduated from high school, of  
 14 course, and I have college classes in tax and accounting and  
 15 business law and numerous other advanced education, but I  
 16 don't have a degree.  
 17 Q Talk to me a little bit about your advanced  
 18 education, what -- go into some detail.  
 19 A Mostly in computers, because that's what I do,  
 20 and in income tax preparation, that sort of thing. I go to  
 21 tax class at Penn State most every year and I do that.  
 22 Q Do you hold any certificates or licenses or  
 23 anything like that?  
 24 A No.  
 25 Q When did you start your post high school

24

1 A The township does.  
 2 Q And PSATS puts on that training?  
 3 A They're doing it now, yes. And DEP does it,  
 4 Department of Transportation does it.  
 5 Q And what does that training consist of  
 6 exactly, what do they show you?  
 7 A Well, like right now is -- they're doing a lot  
 8 of computerization because this is a dinosaur thing they  
 9 have for the townships. And they're doing a lot of training  
 10 for the liquid fuel forms and all those things. They're  
 11 training us to use their new computer systems and --  
 12 bidding. I do all the bidding and that sort of thing. So  
 13 all the latest things we do.  
 14 Q You said that what you do is computerization.  
 15 What did you mean by that?  
 16 A Well, I -- I go around and set different small  
 17 businesses up with their accounting systems and that sort of  
 18 thing.  
 19 Q In connection with your work as a township --  
 20 A Oh, no.  
 21 Q -- supervisor secretary?  
 22 A No, I earn a living. I don't earn a living  
 23 doing township -- no, I'm not -- I shouldn't be funny about  
 24 this, but that's what I do for a living.  
 25 Q Oh, I see. So you have separate employment?

23

1 education?  
 2 A In probably 1960. I've been doing this all  
 3 this time so ...  
 4 Q Taking business classes?  
 5 A Business classes and computer classes when we  
 6 started with computers and I've been taking income tax  
 7 classes since I started doing that in 1974.  
 8 Q What is your exact title at the township?  
 9 A I'm secretary/treasurer.  
 10 Q Secretary/treasurer. Is there any training  
 11 for performing that particular function?  
 12 A Oh, yes.  
 13 Q And what is that?  
 14 A Well, we go -- every year they have classes  
 15 that they get you to attend for -- it's not only secretarial  
 16 duties or treasurer duties, it's everything. They -- we go  
 17 to convention to do this. We go everywhere to do --  
 18 wherever they -- it's called one-step education classes  
 19 through PSATS. So every year -- I even went to  
 20 Shippensburg. They -- we go different places to do what  
 21 we --  
 22 Q What is PSATS?  
 23 A Pennsylvania Association of Township  
 24 Supervisors.  
 25 Q So they send you to training and --

25

1 A Oh, yeah.  
 2 Q We'll get to that in a minute.  
 3 A Okay.  
 4 Q Just tell me a little bit about your duties as  
 5 the township secretary.  
 6 A Well, I take minutes at the meeting, I do  
 7 do that, but I take care of all the financial end of it. I  
 8 make sure that we have all the grants that we're entitled  
 9 to. I fill in all the forms to get us the money. We're a  
 10 poor township, we only have 900 people, and there's a lot of  
 11 paperwork involved in --  
 12 (Interruption.)  
 13 MS. MONTGOMERY: Excuse me one second. I'll  
 14 be right with you.  
 15 (Break taken.)  
 16 MS. MONTGOMERY: Now, where were we? What was  
 17 the last question.  
 18 (Question and answer read.)  
 19 THE WITNESS: There's a lot of paperwork  
 20 involved in just getting the funding for what we need to do  
 21 in the township. And we have -- we've audited three times a  
 22 year so we're constantly under audit. I just -- I take care  
 23 of all that. That's what I do.  
 24 BY MS. MONTGOMERY:  
 25 Q How much time say per week do you put into it?



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1 A I honestly don't know. I cannot tell you how  
2 many -- because I work that in with my job and anything that  
3 needs to be done I do and I honestly cannot tell you how  
4 many hours. Some weeks it's a lot, some months it's a lot,  
5 like January, February, March is really bad, and then at  
6 audit time it's really bad but ...  
7 Q Why are -- January, February and March for tax  
8 season?  
9 A Because -- well, no, not for the township.  
10 The township, that's when you fill in all your forms for  
11 your funding, like your liquid fuels. And we have all --  
12 every agency and everything we deal with we have forms we  
13 have to fill in with the supervisor's information and all  
14 that and it's -- and if you don't do that, then we don't get  
15 our liquid fuels money. So we have those -- those months  
16 we're really busy.  
17 Q Do you do all of that work from the township  
18 office or do you do some of it at home?  
19 A The township does not have an office. They  
20 use my office for their office. I allow them to put their  
21 stuff in my office and that's where it happens.  
22 Q Your office where?  
23 A On Scare Pond Road.  
24 Q Your office at home then you mean?  
25 A I have a separate building that is my office.

27

1 Q That you use in connection with your other  
2 employment?  
3 A Yes.  
4 Q So the township office is your office  
5 essentially?  
6 A Um-hum.  
7 Q Having said that, do you perform any of the  
8 work from inside your home?  
9 A At my house -- my --  
10 Q Yes.  
11 A My office building is here and my house is  
12 over there. There's nothing together. Everything is in the  
13 building. There's nothing in my house, other than phone  
14 calls, you know, that sort of thing. I don't have anything  
15 at the house.  
16 Q Do you keep a record of phone logs? Do you  
17 keep a phone log of like phone calls you receive --  
18 A No.  
19 Q -- in connection with township business?  
20 A No, they have their own line.  
21 Q That rings in your office?  
22 A Um-hum.  
23 MR. SHERR: You have to say yes or no. You  
24 can't --  
25 THE WITNESS: I'm sorry, yes. It rings in my

28

1 office.  
2 BY MS. MONTGOMERY:  
3 Q So if somebody calls on township business, how  
4 do you keep a record of the fact that somebody has called on  
5 township business?  
6 A I don't.  
7 Q You don't, you just keep it in your head?  
8 A I don't get enough phone calls for the  
9 township that I need to keep records or anything. It's --  
10 If somebody calls me, I answer the phone and say Jackson  
11 Township and do what I -- you know, do what I have to do,  
12 but we don't -- we don't get a lot of phone calls.  
13 Q Do you take messages for the supervisors in  
14 connection with --  
15 A No, I tell them -- I give them their phone  
16 number and they call them.  
17 Q So you don't have any kind of old phone  
18 messages or --  
19 A No.  
20 Q -- a book of --  
21 A I don't do that.  
22 Q Let me finish my question.  
23 A I'm sorry.  
24 Q That's all right. Thank you. So as the  
25 secretary you just sort of weave it into your other work,

29

1 your other employment as it needs to be done for the  
2 township?  
3 A Yes.  
4 Q You attend all the township's meetings?  
5 A I've only missed one in the six years I've  
6 been on.  
7 Q And when was that, the one that you missed?  
8 A I think it was two years ago in February I was  
9 really ill and I did not go.  
10 Q And the meetings are held in your office as  
11 well?  
12 A No.  
13 Q Where --  
14 A The meetings are held -- I'm sorry. The  
15 meetings are held at the fire company building in McAlevys  
16 Fort.  
17 Q Is there a telephone in that building?  
18 A Yes.  
19 Q Is there any answering of messages or, you  
20 know, answering of the telephone on behalf of the township  
21 that occurs in that building?  
22 A No.  
23 Q Do you know whether the supervisors have their  
24 own individual offices anywhere?  
25 A No, they don't.



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1 Q Do they have anybody else who answers the  
2 phone or takes messages or handles any township business in  
3 any way on behalf of them?  
4 A No.  
5 Q Typically at a township meeting -- is there a  
6 monthly meeting of the township supervisors?  
7 A Yes.  
8 Q And then there are special meetings from time  
9 to time, correct?  
10 A Once in a while, like when we do the ordinance  
11 or something, but not very often.  
12 Q Who would be present at the township meetings?  
13 A The supervisors and myself.  
14 Q Are they open to the public?  
15 A Oh, always. They have to be by law.  
16 Q Do you advertise --  
17 A Yes.  
18 Q -- all of the township meetings?  
19 A We have to, that's the law.  
20 Q Every month?  
21 A We are required once a year to put it in the  
22 paper in the beginning of January that our regular monthly  
23 meeting will be the first Monday of every month. And then  
24 if we change that, we have to run another ad, or if we --  
25 excuse me. If we have a special meeting, that has to be

32

1 When we bid for -- if we have an emergency that we are going  
2 to bid for roadwork or something that we're doing a special  
3 meeting for, there will be an ad in the paper. Even if we  
4 are doing our bidding at a regular meeting, there still will  
5 be an ad in the paper listing what we're bidding for and  
6 when that meeting is and whatever. It's always in the Daily  
7 News.  
8 Q So in the notice of a special meeting do you  
9 put anything about what the meeting is going to be about?  
10 A Yes.  
11 Q You describe what exactly the supervisors are  
12 trying to accomplish?  
13 A We're bidding on stones or whatever.  
14 Q So you told me what you do in connection with  
15 your duties as secretary for Jackson Township. Is there  
16 anything else you want to add to that?  
17 A I don't know what it would be.  
18 Q How frequent is your contact with the  
19 supervisors of Jackson Township?  
20 A I -- I talk to Mr. Weiler on a daily basis,  
21 only because of his health and he's alone with his sister,  
22 but I don't know. It's a small community. We see one  
23 another and we run into one another. I don't know how often  
24 I talk to them.  
25 Q Is there something additional to add to your

31

1 advertised.  
2 Q Where do you advertise?  
3 A In the Daily News in Huntingdon.  
4 Q The Huntingdon Daily News it's called?  
5 A Um-hum.  
6 Q Is there a particular amount of notice that  
7 you have to give?  
8 A We're supposed to give 24 hours.  
9 Q Twenty-four hours notice for special meetings?  
10 A Yes.  
11 Q And what else are you supposed to do in  
12 connection with those notices?  
13 A Just exactly what I said, we put it in once a  
14 year and I -- oh, I post it on the door. They have a  
15 Plexiglas for me on the door of the fire company and I have  
16 it -- it's posted there when our monthly meeting is. And if  
17 there's a special meeting, I go down and hang it on the  
18 door.  
19 Q What about the content of the notices?  
20 A They're just -- we just have to notify them of  
21 a meeting if there is -- and if it's -- I'm sorry.  
22 Q If it's a special meeting, do you have to tell  
23 them anything else?  
24 A Like if it's an ordinance or we're building or  
25 something, it's in the paper, we advertise it in the paper.

33

1 duties for the township that arises out of your role as the  
2 treasurer for the township?  
3 A I keep track of the books. I have that  
4 computerized. I do that. I pay all the bills.  
5 Q Anything else?  
6 A I move the money around in the bank if we need  
7 to do that. I change all the signatures on the bank  
8 accounts. I --  
9 Q Do you write checks?  
10 A Oh, yes, but I don't -- yes, I do.  
11 Q Do you sign the checks?  
12 A Yes, there's two signatures required.  
13 Q Yours and one of the supervisors?  
14 A Yes.  
15 Q Anything else that you do as -- in connection  
16 with your role as the treasurer for the township?  
17 A Deposit all the money. I -- and write checks  
18 is basically what I do for --  
19 Q Do you participate in -- just in general in  
20 your role in the township, do you participate in substantive  
21 conversations about what the township should do or can do  
22 or --  
23 A I do do that.  
24 Q Do you do that at the monthly meetings or just  
25 on a day-to-day basis or what?

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1 A Wherever it needs to -- wherever it comes up.  
 2 If there's something -- I will get a lot of things in the  
 3 mail that needs to go to the supervisors or, you know, I may  
 4 have researched things for them.  
 5 Q Do you deal directly with the public yourself?  
 6 A Sometimes.  
 7 Q So they come out to your office?  
 8 A No.  
 9 Q They just call you on the telephone?  
 10 A Sometimes.  
 11 Q To ask you questions about what they need to  
 12 do to do this or do that?  
 13 A Sometimes they do that.  
 14 Q Do you vote at all in connection with township  
 15 business?  
 16 A No, I don't have a vote.  
 17 Q Do you have an informal vote?  
 18 A No.  
 19 Q Do the township supervisors seek your advice  
 20 on how to do things for the township?  
 21 A They might ask me to research things.  
 22 Q How do you keep the minutes?  
 23 A They're in a binder.  
 24 Q So you keep --  
 25 A It's not really a binder. It's a big book and

36

1 A No.  
 2 Q So you would have nothing on your -- this is  
 3 -- your e-mail is on your personal computer then --  
 4 A Yes.  
 5 Q -- for your other business?  
 6 A Um-hum.  
 7 Q So there is nothing on that computer that in  
 8 any way relates to township business?  
 9 A No.  
 10 Q You never use that computer to keep minutes  
 11 like, for example, if the other computer is not working or  
 12 something?  
 13 A No, we do not. We've only had the township  
 14 computer for two -- for -- I think it's two -- maybe a year,  
 15 year and a half. And before that I did, but I -- I have two  
 16 new computers and I don't put the township on mine at all.  
 17 Q But before you got the township computers a  
 18 year and a half ago, you did some township business on your  
 19 own computer?  
 20 A Yes, I did.  
 21 Q Did you look on your own computer to see  
 22 whether there was anything on there that might in any way  
 23 relate to this lawsuit or the matters under consideration in  
 24 this lawsuit?  
 25 A I would have trouble doing that since I don't

35

1 you have to staple them in there. It has to be in this  
 2 book.  
 3 Q And you also keep them on the computer?  
 4 A I print them off of there and put them -- I  
 5 have to seal them and put them on -- in the book, yeah.  
 6 Q You have a word processing system?  
 7 A Yes.  
 8 Q What word processing system do you have?  
 9 A We do Microsoft Word and then we also have  
 10 Excel, which is part of that, and Works. We have Works.  
 11 Q What do you use Works for?  
 12 A I use them both for -- I might have -- Word is  
 13 connected to the reports that we do for PennDOT with Excel  
 14 and I use -- that's mainly for the bidding. There's bidding  
 15 forms where we bid for stones and blacktop, and whatever  
 16 we're doing, and snow plowing and that sort of thing.  
 17 That's done in Word. And Works I do my minutes in and  
 18 things.  
 19 Q Do you use e-mail at all in connection with  
 20 your township work?  
 21 A The township is not on the Internet.  
 22 Q Are you on the Internet?  
 23 A Oh, yes.  
 24 Q Do you use your own e-mail in connection with  
 25 township business at all?

37

1 have that anymore. I don't have it anymore.  
 2 Q You don't have that computer anymore?  
 3 A No, and I cleared everything off of there and  
 4 gave it to my grandson.  
 5 Q You gave the computer to your grandson and got  
 6 a new computer?  
 7 A Yes.  
 8 Q Did you backup the information that was on  
 9 your old computer?  
 10 A Oh, yeah.  
 11 Q So did you look on your backup information to  
 12 see whether there was anything related to the Corneals,  
 13 their property or anything that has to do with this lawsuit?  
 14 A No, I did not because the only thing that  
 15 would have been on there would have been the minutes and the  
 16 books.  
 17 Q Well, let's see, Mr. Corneal first started his  
 18 interaction with the township back in 1999, correct, in  
 19 connection with this property?  
 20 A I don't know when he started.  
 21 Q But if he did start in connection with this  
 22 property in 1999, it's possible that you would have some  
 23 information on your old computer, correct?  
 24 A I wouldn't have anything in '99 for Mr.  
 25 Corneal.

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<p style="text-align: right;">38</p> <p>1 Q Why is that?</p> <p>2 A Because I didn't have anything to do -- I</p> <p>3 didn't even know about Mr. Corneal till January 2000.</p> <p>4 Q Do you keep any kind of a log of township</p> <p>5 activities, you know, some sort of an organizational chart</p> <p>6 at all?</p> <p>7 A No, I do not.</p> <p>8 Q Do you keep a calendar?</p> <p>9 A For the township?</p> <p>10 Q Yes.</p> <p>11 A No.</p> <p>12 Q You don't?</p> <p>13 A No.</p> <p>14 Q Does anybody keep a calendar for the township?</p> <p>15 A I don't know. You'll have to -- I don't know.</p> <p>16 Q Have you ever held any other positions with</p> <p>17 Jackson Township besides your secretarial and treasurer</p> <p>18 positions?</p> <p>19 A Yes, we had a supervisor quit and I was</p> <p>20 appointed supervisor till we had a special election.</p> <p>21 Q And when was that?</p> <p>22 A Oh, I don't know whether that was '98 or -- I</p> <p>23 think it was in 1998. I'm not sure. It was just a short</p> <p>24 period of time. A man quit and then we had an election. It</p> <p>25 was just a couple months.</p>	<p style="text-align: right;">40</p> <p>1 A The three supervisors.</p> <p>2 Q There are three supervisors?</p> <p>3 A Right.</p> <p>4 Q And you report to them informally or formally</p> <p>5 or just at the monthly meetings or what?</p> <p>6 A I don't know what you're asking me.</p> <p>7 Q I guess I'm really asking you for a complete</p> <p>8 picture of how you report township business to the</p> <p>9 supervisors. Do you save it all for the monthly meetings,</p> <p>10 do you just call them from time to time to report to them?</p> <p>11 A I call them from time to time to report to</p> <p>12 them.</p> <p>13 Q They're your bosses, right?</p> <p>14 A Yes.</p> <p>15 Q They're the ones who hired you?</p> <p>16 A Yes.</p> <p>17 Q So you have to report to them on any township</p> <p>18 business that comes up?</p> <p>19 A That's right.</p> <p>20 Q So you just call them from time to time?</p> <p>21 A Yes.</p> <p>22 Q Do you know whether they keep any minutes or</p> <p>23 records of your telephone calls to them?</p> <p>24 A I don't know.</p> <p>25 Q So if something comes up between say the first</p>
<p style="text-align: right;">39</p> <p>1 Q It was a couple months and you were appointed</p> <p>2 to fill in as township supervisor --</p> <p>3 A Yes.</p> <p>4 Q -- for a period of time? How long have you</p> <p>5 been the secretary for the township?</p> <p>6 A Since 1996.</p> <p>7 Q How long have you been the treasurer for the</p> <p>8 township?</p> <p>9 A Since 1996.</p> <p>10 Q And how did you go about obtaining that</p> <p>11 position?</p> <p>12 A They put an ad in the paper and I gave them a</p> <p>13 resume.</p> <p>14 Q Are you related to any of the supervisors?</p> <p>15 A No.</p> <p>16 Q Are the minutes for the township meetings</p> <p>17 publicly available?</p> <p>18 A Oh, yes.</p> <p>19 Q So I could go in and look at the book of</p> <p>20 minutes?</p> <p>21 A Sure.</p> <p>22 Q Anybody could go in and look at the book of</p> <p>23 minutes, correct?</p> <p>24 A Yes.</p> <p>25 Q Who do you report to?</p>	<p style="text-align: right;">41</p> <p>1 monthly -- you know, the monthly meeting in January and the</p> <p>2 monthly meeting in February and say four or five different</p> <p>3 things come up, how do you keep a list of what's come up? I</p> <p>4 mean, how do you keep all that organized?</p> <p>5 A When I open the mail and there's something</p> <p>6 that has to be taken care of with the supervisors, I</p> <p>7 normally copy it, if it's something they need to read or</p> <p>8 whatever, prepare for, or -- and I have a file that I have</p> <p>9 ready for the meeting. I put my copy in the folder and then</p> <p>10 I give them their copies along the way so they're prepared</p> <p>11 before the meeting. And so I don't lose it I do that</p> <p>12 because it's -- it's -- there's a lot of paperwork involved</p> <p>13 here and I do that for that reason.</p> <p>14 Q Do you prepare agendas for the monthly</p> <p>15 meetings?</p> <p>16 A Yes, I do. I have it on the computer.</p> <p>17 Q You have the agendas on the computer as well?</p> <p>18 A I have an agenda and when I -- each meeting I</p> <p>19 change it. I just go in and change it and-- it's saved</p> <p>20 under agenda and I just change it for that meeting.</p> <p>21 Q Do you save copies of the old agendas?</p> <p>22 A Probably not.</p> <p>23 Q Does anybody save copies of the old agendas?</p> <p>24 A I don't know.</p> <p>25 Q You don't save the agenda on the meeting from</p>

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<p style="text-align: right;">42</p> <p>1 month to month?</p> <p>2 A No.</p> <p>3 Q The agenda on each monthly meeting you just go</p> <p>4 in and replace --</p> <p>5 A Yes.</p> <p>6 Q -- and you copy over?</p> <p>7 A Yeah, that's what I do.</p> <p>8 Q So you have a form, basically a computerized</p> <p>9 form --</p> <p>10 A Yeah, that's what I do.</p> <p>11 Q Tell me about your other employment.</p> <p>12 A I do income tax preparation and set up</p> <p>13 computers.</p> <p>14 Q Are you self-employed?</p> <p>15 A Yes.</p> <p>16 Q Does your company have a name?</p> <p>17 A Ann's Accounting.</p> <p>18 Q Ann's Accounting?</p> <p>19 A Um-hum.</p> <p>20 Q And you set up computers. When you say you</p> <p>21 set up computers, what do you mean by that?</p> <p>22 A I load software on people's computers for</p> <p>23 accounting and word processing packets and that sort of</p> <p>24 thing, to show them how to run it, show them what to do with</p> <p>25 their payroll, keep them updated. That's what I do.</p>	<p style="text-align: right;">44</p> <p>1 Q You keep it with the minutes?</p> <p>2 A Yes. I've been doing that maybe for -- I</p> <p>3 don't know, three, four months.</p> <p>4 Q You talked about opening township mail, right?</p> <p>5 A Yes.</p> <p>6 Q Is that delivered to your home or to a post</p> <p>7 office box?</p> <p>8 A We have a separate mailbox for the township.</p> <p>9 Q On your property?</p> <p>10 A Yes.</p> <p>11 Q So you keep copies of all the mail received?</p> <p>12 A It depends on what it is. If it's something</p> <p>13 that I'm not going to do anything with, it's just</p> <p>14 information for the supervisors from PSATS or something like</p> <p>15 that, I -- I don't necessarily keep it.</p> <p>16 Q But you do keep some of the mail received,</p> <p>17 copies?</p> <p>18 A If it's something that I have to deal with.</p> <p>19 Q And you keep that in those files?</p> <p>20 A Um-hum.</p> <p>21 Q The metal file cabinets that you have?</p> <p>22 A Yes.</p> <p>23 Q I think you said a moment ago that you don't</p> <p>24 really know what the building permit applications look like</p> <p>25 and you don't -- you're not sure how big they are and all</p>
<p style="text-align: right;">43</p> <p>1 Q So you just consult -- basically have a</p> <p>2 consulting -- computer consulting business?</p> <p>3 A And I do in-house payrolls and that sort of</p> <p>4 thing, quarterlies.</p> <p>5 Q And you prepare tax forms as well?</p> <p>6 A Yes.</p> <p>7 Q Now, you said you were briefly a supervisor</p> <p>8 for the township. Have you ever held any other position</p> <p>9 with Jackson Township?</p> <p>10 A No.</p> <p>11 Q Do you take notes at the meetings besides the</p> <p>12 minutes that you actually type up? Do you have handwritten</p> <p>13 notes that you keep somewhere?</p> <p>14 A No. Once I type it up, I throw it out.</p> <p>15 Q Discard them, okay. Do you keep a record of</p> <p>16 people in attendance at the meeting other than in the</p> <p>17 minutes?</p> <p>18 A I do now.</p> <p>19 Q A different record?</p> <p>20 A Yes.</p> <p>21 Q And what does that consist of?</p> <p>22 A I pass a paper around the room and have</p> <p>23 everybody sign it now, who is there.</p> <p>24 Q And you keep that where?</p> <p>25 A With the minutes.</p>	<p style="text-align: right;">45</p> <p>1 that?</p> <p>2 A I don't.</p> <p>3 Q Now, in connection with your work with the</p> <p>4 township, how many ordinances has the township passed in</p> <p>5 your -- in the history of your work with the township?</p> <p>6 A Three.</p> <p>7 Q And what were they?</p> <p>8 A The land development and subdivision</p> <p>9 ordinance, privy ordinance and a driveway ordinance.</p> <p>10 Q When did they pass the land division and</p> <p>11 subdivision ordinance?</p> <p>12 A July the 10th in 2000.</p> <p>13 Q July the 10th, 2000?</p> <p>14 A Um-hum.</p> <p>15 Q Was the meeting for that ordinance -- or for a</p> <p>16 consideration of that ordinance advertised?</p> <p>17 A Oh, yes.</p> <p>18 Q Where was it advertised?</p> <p>19 A The Daily News.</p> <p>20 Q Did the advertisement state that it would be</p> <p>21 on July the 10th?</p> <p>22 A Oh, yes.</p> <p>23 Q Did the advertisement state what was going to</p> <p>24 be considered at the meeting?</p> <p>25 A Oh, yes.</p>

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1 Q Do you have a copy of the advertisement that  
 2 stated when the --  
 3 A I'm not sure I did that. I think maybe Larry  
 4 Newton did that, but I'm not sure. I can't -- I don't know.  
 5 Q Does Larry Newton sometimes do the  
 6 advertisements?  
 7 A Only for items like that.  
 8 Q Let's talk about the advertisements for a  
 9 second. I think you stated a while ago that you usually do  
 10 the advertisements, right? You do them in the Daily --  
 11 A Daily News.  
 12 Q The Daily News in Huntingdon, correct?  
 13 A Yes.  
 14 Q So you would take care of the advertisements  
 15 at the beginning of the year listing when the monthly  
 16 meetings of the township were going to be held?  
 17 A Right.  
 18 Q Any other advertisements that you routinely  
 19 deal with?  
 20 A Yes, for bidding.  
 21 Q Anything else?  
 22 A No -- special meetings, if we called a special  
 23 meeting.  
 24 Q Sometimes do you do the advertising for  
 25 special meetings held to consider ordinances?

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1 A I honestly don't know whether I did that or  
 2 not. I normally do most of the advertising, but that was a  
 3 special -- so I don't -- I honestly don't know if I did it  
 4 or he did it.  
 5 Q Well, what's involved when you do? Do you  
 6 just call --  
 7 A No.  
 8 Q -- the Daily News? What do you do?  
 9 A No, you have to type something up and fax it  
 10 into them and they put it in the paper.  
 11 Q Do you keep a record of having typed something  
 12 up and faxing it into them whenever you do an advertisement?  
 13 A Oh, yeah, I have that.  
 14 Q Let me think about this for a second. So in  
 15 some situations -- well, you said you passed three  
 16 ordinances -- or the township supervisors have passed three  
 17 ordinances since you've been working for the township,  
 18 correct?  
 19 A Right.  
 20 Q Do you know whether you did the advertising  
 21 for any one of those three ordinances?  
 22 A They were all at the same time.  
 23 Q They were all done at the same meeting?  
 24 A Um-hum.  
 25 Q Which you said was July 10th, 2000?

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1 A I think that's what -- it's on the back of the  
 2 ordinance.  
 3 Q So the ordinance was actually passed at the  
 4 meeting?  
 5 A Right.  
 6 Q So the date of the ordinance -- the date of  
 7 its passage is the date of the meeting, correct?  
 8 A Yes.  
 9 Q Did you notice when you did your search for  
 10 documents whether you had any documents in there indicating  
 11 -- showing advertisements for meetings sent to the  
 12 newspaper, faxes for advertisements for meetings sent to the  
 13 newspaper?  
 14 A I --  
 15 Q Do you have a special file for that?  
 16 A I file them with the documents that we're  
 17 doing. I don't have a file for advertisement. I -- because  
 18 we do our bidding and that sort of thing, I -- and the  
 19 auditors look at our bidding, I have to have that in the  
 20 files for those items so it's got to be there.  
 21 Q Miss Wirth, I'm going to show you a document  
 22 that was faxed to us by your counsel last Friday and we're  
 23 going to mark it as Wirth Exhibit 1. And I'd ask you to  
 24 look at it and see whether you can identify that document  
 25 for me, just familiarize yourself with it for a second.

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1 (Notice produced and marked as Wirth Exhibit  
 2 No. 1.)  
 3 BY MS. MONTGOMERY:  
 4 Q Do you recognize that advertisement?  
 5 A Yes, I do.  
 6 Q So I guess I'm a little bit confused because  
 7 this is a regular monthly meeting and you had said earlier  
 8 that at the beginning of the year you just do an  
 9 advertisement that says this is when the monthly meetings  
 10 are going to be held, but then this is a separate  
 11 advertisement, correct -- I'm sorry, you just nodded your  
 12 head.  
 13 A No, I'm -- I wasn't answering you.  
 14 Q Well, is that correct, that you said that at  
 15 the beginning of the year you do an advertisement that says  
 16 this is when the regular monthly meetings are going to be  
 17 held, correct?  
 18 A I did say that, and I also said that we -- if  
 19 we're having any other meetings or any changes we have to do  
 20 it 24-hour notice for these meetings and that's what this  
 21 was.  
 22 Q Was this a change of the regular monthly  
 23 meeting?  
 24 A Yes, because I think the regular monthly  
 25 meeting then would have been on the 4th of -- that would



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1 have been on the 4th of July, all right, so we changed our  
 2 regular monthly meeting because we were going to enact the  
 3 ordinance.  
 4 Q So you had a monthly meeting on July 10th  
 5 then?  
 6 A Yes.  
 7 Q So you enacted the ordinance at the regular  
 8 monthly meeting?  
 9 A We did do that.  
 10 Q Which was held on July 10th?  
 11 A That's right.  
 12 Q Now that you look at this, do you recall that  
 13 you're the one who put the advertisement in?  
 14 A I did this advertisement. I didn't do the  
 15 ordinance advertisement.  
 16 Q Was there a separate ordinance advertisement?  
 17 A Well, yeah, it's right beside it.  
 18 Q Let me see that. Okay. So you say you didn't  
 19 -- oh, Larry Newton did that one. I see that at the  
 20 bottom, okay. I'm going to show you another document that  
 21 is marked as -- we're going to mark it as Wirth Exhibit 2.  
 22 (Subdivision and land development ordinance  
 23 Jackson Township produced and marked as Wirth Exhibit  
 24 No. 2.)  
 25 BY MS. MONTGOMERY:

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1 Q Do you know when this advertisement appeared  
 2 -- going back to Exhibit 1 for a second, do you know when  
 3 this advertisement appeared in the Daily News? Do you know  
 4 what date?  
 5 A I don't -- I can't tell from here, no. Off  
 6 the top of my head I don't know.  
 7 Q You don't recall?  
 8 A No.  
 9 Q I'm going to give you a copy of this document  
 10 and ask you if you can identify it for the record.  
 11 A This is the subdivision ordinance and land  
 12 development.  
 13 MS. MONTGOMERY: Let the record reflect that  
 14 Michele Thorp just entered the room.  
 15 BY MS. MONTGOMERY:  
 16 Q Is this the subdivision --  
 17 A Yes.  
 18 Q -- ordinance that was passed by Jackson  
 19 Township, correct?  
 20 A Yes. This thing says the 7th.  
 21 Q We're going to direct your attention to  
 22 page 71 of the document. Was this ordinance passed before  
 23 the meeting?  
 24 A No. I probably -- I probably wrote the wrong  
 25 date on there because I know it was passed the night of

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1 this. That's -- and it's documented in the minutes that it  
 2 was done. I probably -- I don't know why that says the 7th.  
 3 Q Did you have a meeting -- like a separate  
 4 meeting at all on July 7th?  
 5 A Oh, no, no.  
 6 Q Did you --  
 7 A What day of the week is that? No, no, that  
 8 was just probably me.  
 9 Q Was this signed at the regular monthly  
 10 meeting?  
 11 A Yes, it was and -- because I took it to get  
 12 copied right away and I -- I did that. I'm sure I probably  
 13 wrote that there that night.  
 14 Q Who was present at that monthly meeting?  
 15 A All the supervisors were there.  
 16 Q Who else?  
 17 A Myself.  
 18 Q Anybody else?  
 19 A I don't remember.  
 20 Q You don't recall whether there was a member of  
 21 the public present?  
 22 A I'm sure there were. There's usually regular  
 23 people there, but I -- I don't -- I don't know for sure if  
 24 they were there that night. I think they were.  
 25 Q Did you provide us with the minutes of this

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1 monthly meeting?  
 2 A Yes.  
 3 Q You provided your counsel with the minutes of  
 4 the monthly meeting, correct?  
 5 A Yes, I did.  
 6 Q Was Larry Newton present at this monthly  
 7 meeting when this ordinance was passed?  
 8 A No.  
 9 Q Can you remember -- this was July 2000. So  
 10 can you remember --  
 11 A I don't know why I did that. I really don't.  
 12 I just wrote the 7th and it was -- but it was done at the  
 13 meeting and I -- you know.  
 14 Q Were all three supervisors present at the  
 15 meeting?  
 16 A Yes.  
 17 Q Can you recall roughly how many people were  
 18 present at the meeting?  
 19 A We might -- there might be three or four  
 20 people, that's all we ever have.  
 21 Q Was there any other notice of the meeting  
 22 published anywhere else?  
 23 A I hung something on the door which I -- I'm  
 24 obligated to do by the Sunshine Law and I put it in the  
 25 paper.



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1 Q When did you hang the notice on the door?  
2 A When I typed this thing -- my routine is when  
3 I type this and send it into the paper, I take it down and  
4 hang it on the door, and that's what I do as my routine.  
5 Q Do you save copies of those notices that you  
6 hang on the door?  
7 A It's this. Yeah, it's just the paper that I  
8 fax over, the same thing, you know.  
9 Q Do you save a copy of that?  
10 A I probably have that.  
11 Q Did you provide that to your counsel in  
12 connection with this request for production of documents?  
13 A Probably not.  
14 Q Why not?  
15 A I don't know that I was -- I don't believe I  
16 was asked for that, was I? I don't know.  
17 MR. SHERR: Just answer --  
18 THE WITNESS: It's here. It's the same thing.  
19 BY MS. MONTGOMERY:  
20 Q It's in the newspaper, right, but you have a  
21 separate notice that you hang on the door, right? Is it a  
22 full size notice?  
23 A That's just -- what's right there on a piece  
24 of paper I hang on the door.  
25 Q What about the more lengthy notice that Larry

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1 Newton put in the paper on the ordinances that were going to  
2 be considered at the meeting? Do you know whether that more  
3 lengthy notice was put in at any other time in any other  
4 newspaper or in the same newspaper?  
5 A You'll have to ask Larry that. I don't know.  
6 Q Tell me again why did you publish this one,  
7 because it was going to be held on a different date?  
8 A Right, it's not the first Monday of the month.  
9 Q Okay, because the first Monday of the month  
10 would have been July 3rd?  
11 A Or July -- July 3rd. We did not -- it was  
12 Labor Day -- it was 4th of July weekend and we changed it to  
13 the 10th and we don't normally do that but we ...  
14 Q Would your records reflect when you sent this  
15 notice into the newspaper?  
16 A I might be able to see the date on the fax  
17 copy if I still have it.  
18 Q Would you please provide that to your counsel  
19 so that it can be provided to me?  
20 A I will try.  
21 Q Whatever you have in connection with the  
22 advertisement of this meeting in any way, shape or form.  
23 What time did the meeting take place? What time did this  
24 meeting take place?  
25 A Seven o'clock.

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1 Q It started as scheduled as shown here in the  
2 paper?  
3 A Yes, I would say it did.  
4 Q Do you remember how long it lasted?  
5 A No, I do not.  
6 Q Was there any discussion on the ordinances?  
7 A I don't remember what we discussed. I don't.  
8 Q Other than ordinances were there other things  
9 that the township supervisors pass, you know, sort of laws,  
10 bylaws, whatever, that the township supervisors pass?  
11 A Like what?  
12 Q Resolutions, that sort of thing.  
13 A Yes, we have to do resolutions.  
14 Q Tell me about that. What kind of resolutions  
15 do you have to do?  
16 A We do resolutions to belong to the Juniata  
17 Watershed. We do resolutions when we make changes at the  
18 bank, when we change the supervisors. We did a lot of  
19 resolutions when we had the flood.  
20 Q Did you pass any resolutions recently?  
21 A Yeah, the Juniata Watershed Resolution.  
22 Q When was that?  
23 A Not this month, last month.  
24 Q Was there any discussion on that resolution?  
25 A Oh, yeah. Yes.

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1 Q Was it well attended by the public, that  
2 meeting?  
3 A We might have had four people.  
4 Q And the public discussed this resolution, do  
5 you recall?  
6 A I don't recall that they did.  
7 Q But you said there was discussion on the  
8 resolution?  
9 A For the supervisors, I was talking about.  
10 Q Among the supervisors. What other resolutions  
11 have been passed say in the last year?  
12 A That was the first resolution, I believe, for  
13 the year.  
14 Q For the year 2001?  
15 A Yes.  
16 Q What about in the year 2000?  
17 A I honestly can't remember that we did anything  
18 other than the Juniata Watershed and -- I can't remember.  
19 Q So you don't recall any resolutions being  
20 passed in the year 2000, correct?  
21 A I'm sorry, I -- if we did, I don't know. It  
22 wouldn't be -- we don't do them -- we don't do -- it's not a  
23 routine that we do, other than bank changes and that sort of  
24 thing.  
25 Q Do you keep records of your resolutions?

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<p style="text-align: right;">58</p> <p>1 A Oh, yeah.</p> <p>2 Q Did you look at the resolutions in connection</p> <p>3 with searching for documents for this lawsuit?</p> <p>4 A I don't think that was part of the request.</p> <p>5 Q Well, did you look?</p> <p>6 A No.</p> <p>7 Q So you didn't review any of the resolutions to</p> <p>8 see whether they might be related in any way to the matters</p> <p>9 in this lawsuit?</p> <p>10 A No.</p> <p>11 Q Any other resolution like documents that are</p> <p>12 passed by the township? We've covered resolutions, we've</p> <p>13 covered ordinances, anything else?</p> <p>14 A No.</p> <p>15 Q Nothing else you can think of? Take your</p> <p>16 time.</p> <p>17 MR. SHERR: I'm going to object to the form of</p> <p>18 the question. It's been asked and answered. She's given</p> <p>19 her answer. You can answer again.</p> <p>20 THE WITNESS: No.</p> <p>21 BY MS. MONTGOMERY:</p> <p>22 Q Okay, thank you. Well, let's talk a little</p> <p>23 bit more about the ordinances that were passed. Do you</p> <p>24 recall when the issue of the subdivision and land</p> <p>25 development ordinance was first raised within the township</p>	<p style="text-align: right;">60</p> <p>1 regular monthly meetings?</p> <p>2 A Only if there was activity, you know, going</p> <p>3 on.</p> <p>4 Q What about -- you say there were two other</p> <p>5 ordinances, a driveway ordinance, correct?</p> <p>6 A Yes.</p> <p>7 Q And a privy ordinance?</p> <p>8 A Right.</p> <p>9 Q All passed on July 7th, according to the</p> <p>10 subdivision and land development ordinance --</p> <p>11 A Yes.</p> <p>12 Q -- right?</p> <p>13 A Yes.</p> <p>14 Q Did you provide us with copies of the highway</p> <p>15 and -- I mean the driveway and privy ordinances?</p> <p>16 A I think they're in the back of -- probably</p> <p>17 not.</p> <p>18 Q Whose idea was it initially to pass a</p> <p>19 subdivision and land development ordinance?</p> <p>20 A I don't know.</p> <p>21 Q You don't recall who first raised the issue?</p> <p>22 A No.</p> <p>23 Q Do you recall how it was raised?</p> <p>24 A No, I don't.</p> <p>25 Q Well, you said that it was discussed on a</p>
<p style="text-align: right;">59</p> <p>1 -- among the township supervisors, I should say?</p> <p>2 A Probably between '97 and '98.</p> <p>3 Q Who raised it?</p> <p>4 A I don't know.</p> <p>5 Q Why do you think it was first raised between</p> <p>6 '97 and '98?</p> <p>7 A Because it took us two years to sift through</p> <p>8 what we wanted to put in our ordinance.</p> <p>9 Q So if this was passed in July 2000 you think</p> <p>10 you started thinking about it two years before that?</p> <p>11 A I know we did.</p> <p>12 Q How do you know you did?</p> <p>13 A Because I started collecting things two years</p> <p>14 before from different areas. We used to put a feeler out to</p> <p>15 our engineer and different places, but I can't tell you the</p> <p>16 exact date.</p> <p>17 Q Were there other meetings of the township</p> <p>18 supervisors at which this land development and subdivision</p> <p>19 ordinance was discussed besides the one at which it was</p> <p>20 passed?</p> <p>21 A Oh, yes.</p> <p>22 Q And how do you recall that? I mean, just in</p> <p>23 keeping the minutes, is that it?</p> <p>24 A Yes.</p> <p>25 Q Was it discussed on a regular basis at the</p>	<p style="text-align: right;">61</p> <p>1 number of occasions, correct?</p> <p>2 A Yes, I did.</p> <p>3 Q Do you recall the nature of those discussions?</p> <p>4 A No.</p> <p>5 Q Do you recall who talked about it?</p> <p>6 A No.</p> <p>7 Q You don't recall anything about any of the</p> <p>8 discussions?</p> <p>9 A No, I don't.</p> <p>10 Q At the meeting that was held, according to</p> <p>11 you, on July 10th, correct?</p> <p>12 A Yes.</p> <p>13 Q Was there any discussion among the public over</p> <p>14 the driveway ordinance?</p> <p>15 A I don't recall.</p> <p>16 Q Was there any discussion about the privy</p> <p>17 ordinance?</p> <p>18 A I don't recall.</p> <p>19 Q How did the driveway ordinance come up? Whose</p> <p>20 idea was that, do you recall?</p> <p>21 A I don't know.</p> <p>22 Q Do you know when it was first raised?</p> <p>23 A I don't -- I don't know.</p> <p>24 Q What about the privy ordinance, when was that</p> <p>25 first raised?</p>

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1     **A**     **I don't know that either.**  
2     **Q**     I think you had mentioned -- so prior to the  
3     passage of the driveway ordinance, did the township collect  
4     fees for driveways for when a resident wanted to put in a  
5     driveway?  
6     **A**     **Not that I'm aware of.**  
7     **Q**     What about for the privies? Was there a fee  
8     that was paid when somebody wanted to put a privy in?  
9     **A**     **Not that I'm aware of. Not to the township.**  
10    **Q**     Are you aware of fees being paid to anybody  
11    else in connection with a privy before the ordinance was  
12    passed?  
13    **A**     **Only the SEO.**  
14    **Q**     What about the driveway, are you aware of fees  
15    being paid to anybody else?  
16    **A**     **No.**  
17    **Q**     I think that you had mentioned earlier that  
18    you didn't know what the application for building permits  
19    looked like. I'm going to show you a document that we are  
20    going to mark as Wirth Exhibit 3. That's for you.  
21            (Application for building permit produced and  
22    marked as Wirth Exhibit No. 3.)  
23    BY MS. MONTGOMERY:  
24    **Q**     I'd ask you to take a look at it for me.  
25    **A**     **I didn't say that I didn't know what that**

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1     **application looked like. What I said was that I didn't know**  
2     **where -- what -- you asked me where he keeps these things**  
3     **and what that looked like and I don't know that, but I do**  
4     **know what this application looks like.**  
5     **Q**     Well, I'm not going to argue with you because  
6     the record will speak for itself, but I did ask you what did  
7     they look like, were there many pages, what's an application  
8     look like, a lot of pages, one page, two pages, and you said  
9     you didn't know. So I'm going to show you this to see if  
10    you can now talk to me about what these applications look  
11    like, okay.  
12            MS. MONTGOMERY: Tony, do you have your copy?  
13    This is Exhibit 3.  
14            THE WITNESS: I know what this is.  
15    BY MS. MONTGOMERY:  
16    **Q**     What is it?  
17    **A**     **It's a -- it's the application for the**  
18    **building permit.**  
19    **Q**     For?  
20    **A**     **For?**  
21    **Q**     Is this a standard application for a building  
22    permit?  
23    **A**     **Yes.**  
24    **Q**     Is this the standard size of the application  
25    for the building permit?

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1     **A**     **You mean paper size?**  
2     **Q**     Yes, paper size.  
3     **A**     **Yes.**  
4     **Q**     Just one sheet, correct?  
5     **A**     **Yes.**  
6     **Q**     So when I asked you earlier, you know, about  
7     getting the building applications for building permits from  
8     Van Dommelen and you indicated that they were cumbersome and  
9     then I asked you, well, how big are they, can you now  
10    explain to me why we couldn't get these one sheet -- one  
11    sheet applications for building permits?  
12    **A**     **I -- you asked me what he -- where he keeps**  
13    **them or what he does with them and how big this is and I**  
14    **said I don't know, and I don't know. I was not referring to**  
15    **a piece of paper.**  
16    **Q**     I'm also going to show you a document that  
17    we're going to mark as Wirth Exhibit 4.  
18            (Minutes dated 7/10/00 produced and marked as  
19    Wirth Exhibit No. 4.)  
20    BY MS. MONTGOMERY:  
21    **Q**     I'd ask you to look at that. Do you recognize  
22    that document, Miss Wirth?  
23    **A**     **Yes.**  
24    **Q**     Can you describe it for the record, please?  
25    **A**     **It's the minutes for July 10th, 2000.**

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1     **Q**     For the meeting of the supervisors --  
2     **A**     **Yes.**  
3     **Q**     -- of Jackson Township?  
4     **A**     **Yes.**  
5     **Q**     Do you see where it says meeting adjourned  
6     7:30?  
7     **A**     **Yes.**  
8     **Q**     So you indicated the meeting started as -- as  
9     advertised at 7 p.m.?  
10    **A**     **Right.**  
11    **Q**     And I had asked you earlier if you knew how  
12    long the meeting lasted, correct?  
13    **A**     **Yes.**  
14    **Q**     Now, that would indicate that the meeting  
15    lasted a half hour. Does that sound right to you?  
16    **A**     **Yes, it does.**  
17    **Q**     Now, these minutes do not indicate who was  
18    present at the meeting, correct?  
19    **A**     **That's exactly right.**  
20    **Q**     Is that because you have a separate attendance  
21    sheet that would indicate who was present at the meeting?  
22    **A**     **No, I probably didn't have an attendance sheet**  
23    **then.**  
24    **Q**     Earlier you testified that you now keep an  
25    attendance sheet to record who's present at the township

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1 meetings, correct?  
2 A Yes.  
3 Q When did you start doing that?  
4 A **January, February this year, something like**  
5 **that.**  
6 Q Why did you start doing that?  
7 A **Because I cannot remember everybody that's**  
8 **there. And when people ask me, I don't know so that's why I**  
9 **did that.**  
10 Q You don't record them in the minutes, who's  
11 there?  
12 A No.  
13 Q You don't record who's at the meetings ever  
14 until this January?  
15 MR. SHERR: Objection, asked and answered and  
16 it's argumentative. You can answer.  
17 THE WITNESS: No.  
18 MS. MONTGOMERY: Thank you.  
19 BY MS. MONTGOMERY:  
20 Q Now that you're looking at these minutes and  
21 thinking about this meeting, does that help you recall who  
22 was present at this meeting?  
23 A **Other than the supervisors you're saying?**  
24 Q Yes.  
25 A **I don't have any idea.**

67

1 Q Does it help you recall whether there were any  
2 members of the public present at the meeting?  
3 A **No, I can -- usually there is, but I can't**  
4 **tell you from looking at this if there was anybody there.**  
5 Q Let's talk about the procedures that the board  
6 of supervisors uses in connection with enacting ordinances.  
7 Are you familiar with that?  
8 A **I don't know what you want -- I don't know**  
9 **what you mean.**  
10 Q What I mean is the process, what process does  
11 the board of supervisors use in connection with enacting an  
12 ordinance? What steps do they have to take?  
13 A **I know it has to be advertised, okay. It has**  
14 **to be made available to the public. That's all I know that**  
15 **-- and it's got to be passed at a meeting and put down in**  
16 **the minutes.**  
17 Q I mean, I think you testified earlier in  
18 connection with describing your duties as the secretary and  
19 the treasurer that you keep all the business of the township  
20 and that you basically keep track of all the things that the  
21 township has to do and you said -- and the record will speak  
22 for itself, but I think you described it to me as there are  
23 a lot of things that you have to do, say to get grants or to  
24 do this or to do that and you keep all that stuff organized  
25 for the township supervisors; isn't that correct?

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1 A **That is correct.**  
2 Q So in connection with what the board of  
3 supervisors has to do in enacting an ordinance, do you have  
4 some sort of a file or something that helps you help them  
5 make sure that they're doing what they're supposed to do in  
6 enacting an ordinance?  
7 A **No.**  
8 Q Why is that?  
9 A **We've only done these three ordinances and**  
10 **they were taken care of by Larry Newton.**  
11 Q So you weren't involved in it at all,  
12 discussing --  
13 A **I don't know what -- repeat the question.**  
14 Q You weren't involved in saying, okay, now we  
15 have to do this to make sure that we -- you know, do  
16 whatever we have to do to get the ordinance enacted, you  
17 weren't involved in that?  
18 A **I talked to Larry Newton about it, yes, and I**  
19 **think I talked to the county planner about it.**  
20 Q Do you remember the substance of those  
21 conversations?  
22 A **I think I asked him for the routine we needed**  
23 **to do and Larry took care of it.**  
24 Q You asked Larry Newton for the routine that  
25 you had to do?

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1 A **Yes, and for the county -- and to the county**  
2 **planner.**  
3 Q And the county planner?  
4 A **Um-hum.**  
5 Q When you say the county planner, are you  
6 referring to Richard Stahl?  
7 A **Yes.**  
8 Q What did Larry Newton tell you that you had to  
9 do in connection with the ordinance?  
10 A **You mean other than advertising the ordinance**  
11 **and making it available?**  
12 Q Right.  
13 A **Just exactly what I told you before, that's**  
14 **what he told us to do.**  
15 Q Do you recall anything else, that's all I'm  
16 asking you?  
17 A **No.**  
18 Q How many occasions did you talk to Larry  
19 Newton about the enacting of a subdivision and land  
20 development ordinance?  
21 A **I have no idea.**  
22 Q You can't remember?  
23 A **No.**  
24 Q Can you say you talked to him frequently or  
25 infrequently? Can you narrow it that way?

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1 A **Probably infrequently.**  
 2 Q Over the course of how many years?  
 3 A **Over the course of how many years?**  
 4 Q Yes.  
 5 A **I don't know what you're asking.**  
 6 Q Well, I'm asking you how often you talked to  
 7 Larry Newton about the enactment of a subdivision and land  
 8 development ordinance and you said probably infrequently.  
 9 And I'm asking you infrequently over the course of how many  
 10 years?  
 11 A **Okay, probably in the beginning of -- I don't**  
 12 **know. I don't know how many times I talked to him.**  
 13 Q Did you have occasion to talk to Larry Newton  
 14 about the Corneal property?  
 15 A Yes.  
 16 Q Can you recall how many times you talked to  
 17 Larry Newton about the Corneal property?  
 18 A **No, I can't.**  
 19 Q Did you ask Larry Newton to give you some  
 20 guidance or advice about how to deal with the Corneal  
 21 property?  
 22 A No.  
 23 Q What did you talk to him about in connection  
 24 with the Corneal property?  
 25 A **I can't remember -- we talked to him about the**

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1 **lawsuit, I know that.**  
 2 Q About this lawsuit you mean?  
 3 A **This lawsuit and the state lawsuit, the**  
 4 **lawsuit we initiated.**  
 5 Q Do you recall talking to him about the Corneal  
 6 property prior to the initiation of the lawsuit?  
 7 A **Yes, we did do that.**  
 8 Q Was Larry Newton generally aware of what was  
 9 going on with the Corneal property prior to the initiation  
 10 of the lawsuit?  
 11 A **I don't know. I can't answer that.**  
 12 Q Do you have reason to believe in your  
 13 interaction with Larry Newton that he knew generally what  
 14 was going on in connection with the Corneal property between  
 15 the Corneals and the township?  
 16 A **I don't really know whether Larry did or not.**  
 17 Q Well, let's try and just, you know, back up a  
 18 second and maybe we can jog your memory somehow. You  
 19 indicated that you know that you spoke with Larry Newton  
 20 prior to initiation of the lawsuits about the Corneal  
 21 property, correct?  
 22 A **Yes, we did.**  
 23 Q On what occasions? At township meetings?  
 24 A **No, he was not at the township meetings.**  
 25 Q On what occasions then?

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1 A **It would have to be on the telephone.**  
 2 Q On the telephone between you and him?  
 3 A **Well, it could have been between me, it could**  
 4 **have been on the speaker phone with one of the supervisors.**  
 5 **You know, we've talked about things.**  
 6 Q You recall both occurrences?  
 7 A Yes.  
 8 Q Conference calls with the supervisors and  
 9 Larry and you and conversations separately between you and  
 10 Larry, correct?  
 11 A **I said supervisor.**  
 12 Q Supervisor. Which supervisor?  
 13 A **I don't know. I don't know if they were all**  
 14 **there. I'm just saying that's what I said. I don't know.**  
 15 Q Well, give me an idea of how you would come to  
 16 talk to Larry about the Corneal property? Would you call  
 17 him up?  
 18 A **Most of the time he called us because the**  
 19 **information went from Jim Himes to Larry and then through**  
 20 **Larry to us.**  
 21 Q Who is Jim Himes?  
 22 A **He was a -- I think it's Jim Himes. He was an**  
 23 **attorney that Mr. Corneal was using in Huntingdon.**  
 24 Q So you're saying that Larry would call you and  
 25 say I've spoken to Jim Himes and this is what I understand

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1 to be going on with the Corneals?  
 2 A **No, what I'm saying is we got information from**  
 3 **Larry, like the first document we got came to Larry from --**  
 4 **I guess it -- I think it was either him or Simpson. I'm not**  
 5 **sure how it got to Larry.**  
 6 Q Who is Simpson, who are you referring to?  
 7 A **The surveyor I believe that did the original**  
 8 **survey.**  
 9 Q When you say the first document, what do you  
 10 mean the first document?  
 11 A **We had a land -- a plot plan.**  
 12 Q So that went to Larry and then came to you?  
 13 A **Yes, but I'm not sure how Larry got it.**  
 14 Q So prior to the lawsuit which was initiated  
 15 last summer, summer 2000, July 2000 --  
 16 MR. CORNEAL: July.  
 17 BY MS. MONTGOMERY:  
 18 Q Can you estimate how many times you talked to  
 19 Larry Newton about the Corneal property?  
 20 A **I don't recall.**  
 21 Q Was it more than twice?  
 22 A **Oh, I'm sure it was more than twice.**  
 23 Q Do you think it was more than 10 times?  
 24 A **I doubt it.**  
 25 Q Do you think it was more than five?



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1 A I don't know.  
 2 Q But you're sure it was more than two?  
 3 A Yes. I talked to him more than twice.  
 4 Q Do you recall what you talked to him about?  
 5 A Not really. I've talked to Larry about a lot  
 6 of things with the township.  
 7 Q Now, you mentioned that you remember being on  
 8 a conference call with Larry and at least one of the other  
 9 supervisors, one of the supervisors, correct?  
 10 A Yes.  
 11 Q Do you recall what you talked about to Larry  
 12 during that meeting or what anybody talked about to Larry  
 13 during that meeting?  
 14 A I think that was after the lawsuit was served.  
 15 Q Did you or the supervisors to your knowledge  
 16 initiate any separate meetings with Larry -- or have any  
 17 separate meetings with Larry, I should say. Have any  
 18 separate meetings with Larry to discuss the Corneal property  
 19 prior to the lawsuit?  
 20 A Prior?  
 21 Q Yes.  
 22 A I can't -- I can't recall that either.  
 23 Q Have you ever been at a township meeting where  
 24 Mr. Corneal was present?  
 25 A Twice.

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1 Q Do you recall what happened at that meeting?  
 2 A Yes, they told him that there was a moratorium  
 3 and we wouldn't be signing -- approving any more  
 4 subdivisions.  
 5 Q Do you recall any contact with Mr. Corneal  
 6 prior to that February meeting?  
 7 A I really don't.  
 8 Q You don't recall speaking with him?  
 9 A No, I don't.  
 10 Q Do you recall him being at any other meetings?  
 11 A No.  
 12 Q So let's talk a little bit more about that  
 13 meeting, okay. Mr. Corneal came in, who else was present?  
 14 A The supervisors.  
 15 Q Anybody else?  
 16 A I don't -- there was people there, but I --  
 17 I'm sure. I don't know who they were.  
 18 Q Do you recall how many people were there?  
 19 A There's usually -- there's usually four, but I  
 20 can't swear who they were.  
 21 Q Is it typically the same four people?  
 22 A Yes.  
 23 Q Who are they?  
 24 A Denson Groenendaal. Rick Saunders, and I  
 25 can't swear to that because he was ill for a long time, but

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1 Q Twice?  
 2 A That I recall.  
 3 Q You recall twice. Do you recall when those  
 4 times were?  
 5 A I think it was February and April. It's in  
 6 the minutes.  
 7 Q February and April of --  
 8 A Or maybe it was February and March or January  
 9 and March.  
 10 Q Of 2000?  
 11 A Yes, it was either January and March or --  
 12 yeah, maybe that's when it was.  
 13 Q Do you recall what happened at those meetings?  
 14 A Yes.  
 15 Q Can you tell me what happened at the February  
 16 -- let's start with the February meeting?  
 17 A Was it February?  
 18 (Pause.)  
 19 THE WITNESS: In -- what's the date, February  
 20 -- February 7th when Mr. Corneal came and asked the  
 21 supervisors to sign his subdivision ordinance -- or his  
 22 subdivision -- I'm sorry, to sign his subdivision plan.  
 23 BY MS. MONTGOMERY:  
 24 Q In February of 2000?  
 25 A Correct.

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1 he normally is there. And it's usually Barb Hawbaker and  
 2 Bet White, but I can't swear that any of those were there.  
 3 I don't know. And maybe Mike Koch.  
 4 Q Mike Koch?  
 5 A Maybe. I don't know.  
 6 Q So those four individuals that you mentioned  
 7 earlier are usually there. Is Mike Koch sometimes usually  
 8 there or what?  
 9 A Sometimes he's there, sometimes he's not.  
 10 Q Anybody else there from time to time?  
 11 A Mr. Corneal.  
 12 Q Anybody else?  
 13 A I can't remember.  
 14 Q The four individuals that you named earlier  
 15 and Mr. Koch, have they been attending township meetings for  
 16 a long time?  
 17 A Sometimes.  
 18 Q Well, the question is a little different than  
 19 that. Is their attendance -- does their frequent  
 20 attendance, as I think you described it, go back several  
 21 years?  
 22 A Yes.  
 23 Q Does it go back all six years you've been with  
 24 the township?  
 25 A No.



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1 Q When did it start?  
 2 A I don't remember when they started --  
 3 Q Do you know why these particular people always  
 4 attend township meetings?  
 5 A I would say because they're interested in  
 6 what's going on in the township.  
 7 Q Are they the only people that attend township  
 8 meetings or are there others in addition to them from time  
 9 to time?  
 10 A Sometimes there will be other people.  
 11 Q Do you ever recall -- do you know who the  
 12 Hewetts are?  
 13 A Yeah, I do. I do know who the Hewetts are.  
 14 Q Do you recall the Hewetts being at any  
 15 township meetings?  
 16 A They might have been, I don't know. They  
 17 might have been at that meeting. I'm not sure.  
 18 Q Do you recall them being at one meeting, more  
 19 than one meeting?  
 20 A I remember that they were at -- they were  
 21 definitely in the April meeting.  
 22 Q They were definitely in the April meeting?  
 23 A I remember that.  
 24 Q Why do you recall that?  
 25 A Because that was the night that Mr. Corneal

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1 said he was not subdividing and they were sitting there and  
 2 I remember that. And they -- I don't know what ...  
 3 Q That meeting that they were at, that April  
 4 meeting, do you recall who else was there?  
 5 A No. It could have been the same group.  
 6 Q At the February 7, 2000 meeting you indicated  
 7 that Mr. Corneal presented his proposed subdivision plan to  
 8 the township supervisors, correct?  
 9 A Right.  
 10 Q What happened to the subdivision plan? Did he  
 11 hand it to them?  
 12 A No.  
 13 Q He didn't hand it to them?  
 14 A No.  
 15 Q What did he do with it?  
 16 A He took it with him.  
 17 Q He never handed it over to any of the township  
 18 supervisors?  
 19 MR. SHERR: Objection. It's been asked and  
 20 answered. You can answer.  
 21 MS. MONTGOMERY: I want to make sure she  
 22 understands the question.  
 23 THE WITNESS: They may have looked at it. I'm  
 24 not sure. I can't remember if they looked at it and -- but  
 25 we did not keep it.

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1 BY MS. MONTGOMERY:  
 2 Q Why not?  
 3 A I don't know. I don't remember what the -- I  
 4 just know what was here, okay, so -- but it never stayed  
 5 with the supervisors. If they looked at it that night, I  
 6 don't remember that.  
 7 Q Did they hand it back to him?  
 8 A Yes, it never stayed with us.  
 9 Q Did Mr. Corneal ask them to keep it, do you  
 10 know?  
 11 A No, not that I'm aware of.  
 12 Q What else happened at that February 7, 2000  
 13 meeting, if you recall?  
 14 A Other than what's in the minutes?  
 15 Q Well, anything that you recall.  
 16 A I don't recall anything other than what's in  
 17 the minutes.  
 18 Q Did the supervisors know that Mr. Corneal was  
 19 going to bring his subdivision plan into that meeting?  
 20 A I don't know that either.  
 21 Q Did you know?  
 22 A I can't remember ever talking to Mr. Corneal  
 23 until this point.  
 24 Q Do you recall talking to anybody else about  
 25 Mr. Corneal prior to that February 7th meeting?

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1 A No, I don't.  
 2 Q Now, you had mentioned that there was -- you  
 3 keep an agenda, right?  
 4 A Yes.  
 5 Q Was Mr. Corneal's subdivision plan on the  
 6 agenda for that meeting?  
 7 A I don't remember that, I don't.  
 8 Q You mentioned earlier that you recall the  
 9 Hewetts being at the April meeting.  
 10 A I do.  
 11 Q Did you have occasion to talk to the Hewetts  
 12 before the meeting?  
 13 A John Hewett called and asked if the meeting  
 14 was on that day and I -- you know, if we were having our  
 15 regular meeting and I said yes.  
 16 Q So you knew they were going to be there?  
 17 A He didn't -- well, I knew he called to ask  
 18 about the meeting, that's all I knew.  
 19 Q I'm going to give you a document that we're  
 20 going to mark as Wirth Exhibit 5. Let me give a copy to the  
 21 court reporter.  
 22 (Minutes dated 2/7/00 produced and marked as  
 23 Wirth Exhibit No. 5.)  
 24 BY MS. MONTGOMERY:  
 25 Q I'd ask you to identify it for the record,

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1 please.  
2 A It's the minutes from February 7th, 2000.  
3 Q Now, as you're looking at those minutes,  
4 there's a reference to Denny Grandthal, is that --  
5 A Groenendaal.  
6 Q I'm sorry?  
7 A That's Denny Groenendaal. I have it spelled  
8 wrong here.  
9 Q Denny Groenendaal?  
10 A Right.  
11 Q Presented a copy of the concerns and opinions  
12 of the taxpayer's associations on the proposed subdivision  
13 ordinances, right?  
14 A Yes, he did.  
15 Q Do you have a copy of those concerns and  
16 opinions?  
17 A Yes.  
18 Q Did you provide them in connection with your  
19 search for documents for this lawsuit?  
20 A You didn't ask me for those.  
21 Q You do have a copy of them now, you said,  
22 right?  
23 A Pardon?  
24 Q You do have a copy of them in your files,  
25 right?

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1 A Yeah, I believe I did see those when I went  
2 through the files.  
3 Q Do you recall anything about those concerns  
4 and opinions?  
5 A No.  
6 Q So there was discussion at this February 7th  
7 meeting about this proposed subdivision ordinance?  
8 A Obviously.  
9 Q You don't recall anything about it?  
10 A No, I don't, other than what's here.  
11 Q Now, at this February 7, 2000 meeting you  
12 indicated that the township supervisors told David Corneal  
13 that there was a moratorium in place, correct?  
14 A Yes.  
15 Q A moratorium on what?  
16 A Approving subdivisions.  
17 Q And when did that moratorium go into place?  
18 A At the January meeting.  
19 Q Was there some sort of a resolution or  
20 something indicating that the moratorium was being placed?  
21 A No, it's only in the minutes.  
22 Q It's only in the minutes. Was the moratorium  
23 discussed at any earlier meetings?  
24 A I don't recall.  
25 Q But you do recall that there's no resolution

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1 or other written document concerning the moratorium,  
2 correct?  
3 A Yes, I do recall that.  
4 Q So do you recall -- I'm not sure if I asked  
5 you this question and I apologize if I already did, but I'll  
6 ask you again. Do you recall when the moratorium was first  
7 discussed at a township meeting?  
8 A The January meeting.  
9 Q That was the first time?  
10 A That's when it's in the minutes. I don't  
11 recall that it was discussed beforehand.  
12 Q You only missed one meeting, correct?  
13 A Yes.  
14 Q So if it was discussed, it would be in the  
15 minutes, correct?  
16 A It should be.  
17 Q Now, was there any discussion about the  
18 moratorium prior to the January meeting informally among the  
19 supervisors and you?  
20 A I don't recall.  
21 Q Well, I'll just ask you more generally. Do  
22 you recall discussing the moratorium at any time other than  
23 at the January meeting?  
24 A No.  
25 Q With anybody?

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1 A No.  
2 Q You didn't?  
3 A Well, I can't say anybody.  
4 Q Why is that, why can't you say anybody?  
5 A I don't know if I did.  
6 Q Because you just don't remember?  
7 A I just don't remember.  
8 Q Do you know what Mr. Corneal said at the  
9 February meeting in response to the supervisors telling him  
10 that there was a moratorium in place?  
11 A No. Other than what's in my minutes, I don't  
12 remember.  
13 Q If I tell you that Mr. Corneal told the  
14 supervisors that the moratorium was illegal, does that jog  
15 your memory at all? Do you recall him --  
16 A I don't remember him saying that.  
17 Q You don't recall him saying anything --  
18 A Other than what I have in my minutes, I don't  
19 recall.  
20 Q Now, you mentioned that at the April meeting  
21 the Hewetts were present, correct, and that they -- that  
22 John Hewett had called ahead of time and asked what was on  
23 the agenda, correct?  
24 MR. SHERR: Objection.  
25 BY MS. MONTGOMERY:

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1 Q What did you say?  
2 MR. SHERR: Objection. It's been asked and  
3 answered and you're misstating testimony now on the record,  
4 misstating the witness's testimony. You can answer it.  
5 THE WITNESS: What are you asking me?  
6 MR. SHERR: She's asking you what Hewett said  
7 when he called up.  
8 THE WITNESS: He just wanted to know what was  
9 on the agenda.  
10 BY MS. MONTGOMERY:  
11 Q Like I said, I'm just laying a little  
12 foundation so we can go back to that meeting, okay. If ever  
13 I mischaracterize anything you say earlier, you should  
14 correct me because I don't want to do that, okay?  
15 A Okay.  
16 Q In the course of that conversation did you  
17 have any -- you know, how long was that conversation with  
18 John Hewett?  
19 A I don't remember.  
20 Q Do you know John Hewett's wife?  
21 A I don't know as he has a wife.  
22 Q Or his --  
23 A I don't know the situation there. I don't  
24 know. I don't want to misstate that because I don't know.  
25 Q Well, we call them the Hewetts.

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1 Q Did they tell you why they were interested in  
2 knowing how soon that you --  
3 A No.  
4 Q Did you understand why they wanted to know?  
5 A I don't know what you want me -- I don't know  
6 what you're asking me.  
7 Q I'm asking you if you understood why they were  
8 asking you about how soon you were going to pass the  
9 subdivision ordinance?  
10 A I probably did.  
11 Q You probably did understand?  
12 A Yes.  
13 Q What was your understanding?  
14 A That they were going to move into the  
15 neighborhood, you know, and they wanted to know about the  
16 subdivision ordinance and when we were going to approve it.  
17 Q Do you know why they wanted to know that,  
18 though?  
19 A No, I don't know that.  
20 Q Do you know where they were going to move?  
21 A Yes, in Mr. Corneal's farmhouse.  
22 Q Do you know how they were going to go about  
23 moving into Mr. Corneal's farmhouse?  
24 A I have no idea.  
25 Q Do you know whether they were going to

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1 A I probably did and that's probably like the  
2 7th, I did that wrong, but I don't know that.  
3 Q Do you know the woman who keeps company with  
4 John Hewett?  
5 A I've only ever seen her one time.  
6 Q Do you know her name, her first name?  
7 A Joanne Smith, I think it is. Smith is her  
8 last name.  
9 Q Joanne Smith, okay. Did she come to the  
10 meeting with John Hewett in April?  
11 A I think she was there that night.  
12 Q Did you have any discussions with the Hewetts  
13 prior to the meeting other than the telephone call that he  
14 placed to you?  
15 A No.  
16 Q No informal discussion, no chitchat?  
17 A No.  
18 Q What about after the meeting?  
19 A I think she came up to me and talked to me,  
20 either she or -- or one of them did. I think it was her.  
21 Q What did they talk about?  
22 A She introduced herself to me that night.  
23 Q Do you recall what they talked to you about?  
24 A They were asking -- they were asking how soon  
25 we were going to pass the subdivision ordinance.

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1 purchase Mr. Corneal's --  
2 A I do know they were going to purchase it.  
3 Q Do you know if they were going to purchase the  
4 farmhouse and anything else?  
5 A Yes, it was on the plot plan. They were going  
6 to purchase the farmhouse and some acreage.  
7 Q So in April 2000 you understood that that was  
8 why they were asking about the subdivision ordinance?  
9 A Right.  
10 Q Do you recall any other aspects of that  
11 conversation --  
12 A No.  
13 Q -- any more specifics?  
14 A No.  
15 Q Let me finish my question. It's for her sake.  
16 A I'm sorry.  
17 Q Did they express any concern to you about  
18 their purchase of Mr. Corneal's farmhouse?  
19 A Not that I recall.  
20 Q Did you notice whether or not they talked to  
21 any of the supervisors?  
22 A They might have. I don't know. I'm usually  
23 closing my books so I don't know.  
24 Q I'm going to show you a document that we're  
25 going to mark as Wirth Exhibit 6.

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1 (Minutes dated 1/4/00 produced and marked as  
2 Wirth Exhibit No. 6.)  
3 BY MS. MONTGOMERY:  
4 Q Do you recognize this document that we've  
5 marked as Wirth Exhibit 6?  
6 A I do, but I don't recognize the writing that's  
7 on the bottom. I don't know where that came from.  
8 Q That was one of my questions for you, thank  
9 you. Now, am I correct in saying that this was the meeting  
10 in which the moratorium was approved --  
11 A Yes, you are.  
12 Q -- or passed or a resolution --  
13 A Yes, you are.  
14 Q Do you have any documents in your office about  
15 the moratorium that you didn't produce?  
16 A No.  
17 Q Do you know whether any documents exist  
18 related to the moratorium?  
19 A No.  
20 Q You don't know?  
21 A No.  
22 Q Or they don't exist? I'm just asking --  
23 A They don't -- this is it.  
24 Q They don't exist?  
25 A Right.

91

1 Q So I notice here that the meeting opened at  
2 7:10 p.m., correct?  
3 A No, there's another section to this. You  
4 don't have both sections.  
5 Q What is the other section?  
6 A It's the reorganizational meeting where we do  
7 all the appointing of the supervisors and state what our tax  
8 rates are going to be and all that and you don't have the  
9 other section here.  
10 Q So was this the meeting -- the meeting started  
11 at --  
12 A That started at seven and this one started at  
13 7:10.  
14 Q Was the meeting started at seven open to the  
15 public?  
16 A Always.  
17 Q Always, okay. Do you have separate minutes  
18 for that meeting?  
19 A Yes.  
20 MR. SHERR: And they have been provided.  
21 BY MS. MONTGOMERY:  
22 Q So it looks like the regular meeting at which  
23 the moratorium was discussed lasted from 7:10 to 7:35 p.m.,  
24 correct?  
25 A Yes.

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1 Q Thank you. Do you know whether they  
2 advertised -- or did you advertise this particular meeting  
3 on January 4, 2000 where the moratorium was discussed?  
4 A I didn't advertise it.  
5 Q Do you know whether anybody advertised it?  
6 A I'm not sure if Larry did or not. I don't  
7 know.  
8 Q Did you put one of those notices on the  
9 township or -- it's the firehouse door, right?  
10 A Yes.  
11 Q Did you put one of these notices on the  
12 firehouse door?  
13 A For what?  
14 Q About the fact that the moratorium was going  
15 to be discussed.  
16 A Probably not.  
17 Q Did you talk to Mr. Newton about the  
18 moratorium prior to this January meeting?  
19 A I probably did.  
20 Q You probably did?  
21 A Yes.  
22 Q Why do you think you probably did?  
23 A I would have wanted to know what to do.  
24 Q You would have wanted to know whether it was  
25 okay to do the moratorium you mean?

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1 A I don't know what you're asking me.  
2 Q Well, you said you would have wanted to know  
3 what to do. I'm just trying to get a feel for -- what do  
4 you mean? You wanted to know what to do. You wanted to  
5 know whether to advertise it or was it okay to do the  
6 moratorium or what?  
7 A I don't know if I would have asked him about  
8 the advertisement. I don't know if I would have done that,  
9 but I probably would have asked him about this, if it was  
10 all right to put it in the minutes.  
11 Q If it was okay to put the existence of the  
12 moratorium in the minutes?  
13 A Yes.  
14 Q Would you have asked him whether it was okay  
15 to impose the moratorium?  
16 A I'm not sure I asked him that.  
17 Q You don't recall?  
18 A No.  
19 Q You had mentioned earlier that you did  
20 research for the supervisors?  
21 A Sometimes.  
22 Q What kind of research?  
23 A I would ask questions about -- well, I call to  
24 see what stone rates are and all those kind of things.  
25 Q You call and find out what procedures you have

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<p style="text-align: right;">94</p> <p>1 to follow? I mean --</p> <p>2 A Sometimes.</p> <p>3 Q Do you call Larry Newton to find out what</p> <p>4 procedures you would have to follow?</p> <p>5 A If they ask me to.</p> <p>6 Q Have you done that in connection with the</p> <p>7 subdivision and land development ordinance?</p> <p>8 A Some things, some parts of it.</p> <p>9 Q You've called Larry Newton and asked is this</p> <p>10 okay or is that okay?</p> <p>11 A I'm not sure I've talked to Larry Newton about</p> <p>12 everything. I've talked to PSATS, you know.</p> <p>13 Q So that's the kind of research you do for the</p> <p>14 township, just --</p> <p>15 A Yes.</p> <p>16 Q Anything? Is it just a broad range of</p> <p>17 research that you do?</p> <p>18 A When it's needed I do that.</p> <p>19 Q Do you know whether the supervisors talked to</p> <p>20 Larry Newton about the moratorium?</p> <p>21 A You'll have to ask them.</p> <p>22 Q Was Larry Newton present at the meeting?</p> <p>23 A No.</p> <p>24 Q Why do you recall that?</p> <p>25 A Because Larry never comes to the meeting</p>	<p style="text-align: right;">96</p> <p>1 Q Well, there's no -- if you had discussed it at</p> <p>2 prior township meetings, it would be reflected in the --</p> <p>3 A It would be in the minutes.</p> <p>4 Q Right. So if it's not in the minutes, it</p> <p>5 wasn't discussed, right?</p> <p>6 A Right.</p> <p>7 Q Now, I just want to ask you, do you recall who</p> <p>8 first brought up the idea of the moratorium?</p> <p>9 A I don't.</p> <p>10 Q You don't know whose idea it was?</p> <p>11 A No.</p> <p>12 Q Was there one particular supervisor who was --</p> <p>13 in your memory who was a proponent of the moratorium more</p> <p>14 than any other supervisor?</p> <p>15 A No, I cannot remember anybody being that.</p> <p>16 Q Now, do you recall any specifics about</p> <p>17 discussions of the moratorium at the January meeting?</p> <p>18 A Other than what's in my minutes?</p> <p>19 Q Yes.</p> <p>20 A No.</p> <p>21 Q Do you recall who else was present at the</p> <p>22 January meeting?</p> <p>23 A All the supervisors.</p> <p>24 Q Anybody else?</p> <p>25 A Me. I'm not sure about Dave Van Dommelen. I</p>
<p style="text-align: right;">95</p> <p>1 unless I request him.</p> <p>2 Q And you didn't request him to come to this</p> <p>3 meeting?</p> <p>4 A No.</p> <p>5 Q I'm just going to try, you know, and ask you</p> <p>6 some questions just so you can try and remember a little bit</p> <p>7 more about discussing the moratorium. Maybe it won't work,</p> <p>8 maybe it will work, but I just want to try to get as much</p> <p>9 factual information as I can so we can understand the</p> <p>10 moratorium.</p> <p>11 Is there anybody else that you recall asking</p> <p>12 about the moratorium prior to the day it was passed?</p> <p>13 A Like who?</p> <p>14 Q I'm asking you, anybody.</p> <p>15 A I don't remember anybody asking me about the</p> <p>16 moratorium.</p> <p>17 Q Did you discuss it with the township</p> <p>18 supervisors?</p> <p>19 A We would have discussed it, yes.</p> <p>20 Q In what capacity, in what context?</p> <p>21 A I don't know.</p> <p>22 Q You mean over the telephone?</p> <p>23 A I don't remember if we would have talked about</p> <p>24 it over the telephone or at the meeting. I'm sure we've</p> <p>25 discussed it. I just don't remember when.</p>	<p style="text-align: right;">97</p> <p>1 don't know. I don't know.</p> <p>2 Q Do you recall whether there was any member of</p> <p>3 the public present?</p> <p>4 A I don't know if Mr. Corneal was there or not.</p> <p>5 I don't know. I guess it says he was, right? No, he wasn't</p> <p>6 at the January meeting. It doesn't say that. I don't know.</p> <p>7 Q In your minutes it indicates that -- in the</p> <p>8 minutes of your January 4 meeting, which I guess is</p> <p>9 Exhibit 6, it states that the supervisors stated that no</p> <p>10 more subdivisions will be approved. Do you know which</p> <p>11 supervisor said that? I mean, they didn't say that in</p> <p>12 unison, right? One supervisor reported that, correct?</p> <p>13 A I don't -- that is just that they all agreed</p> <p>14 on it. They all agreed. So no one in particular, they just</p> <p>15 all agreed, and that's what I wrote down there.</p> <p>16 Q So it's just a summary of what they stated?</p> <p>17 A Right.</p> <p>18 Q At the township meetings does one supervisor</p> <p>19 sort of take the lead or, you know, act as the chair of the</p> <p>20 meetings or anything like that?</p> <p>21 A There is a chair.</p> <p>22 Q And who is that?</p> <p>23 A In 2000 it was Ralph Weiler.</p> <p>24 Q So does he sort of lead the agenda? Does he</p> <p>25 announce the items on the agenda for discussion or do you do</p>



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1 that?  
2 A He does that.  
3 Q What's his role as chairman exactly? What all  
4 does he do?  
5 A He leads the meeting.  
6 Q When he leads the meeting -- so he says now  
7 we're going to talk about X and now we're going to talk  
8 about Y?  
9 A Yeah.  
10 Q Do you recall him doing that that night?  
11 A No.  
12 Q In your minutes it also refers to as soon as  
13 we get the review from the planning commission. What are  
14 you talking about, the review from the planning commission?  
15 Do you recall?  
16 A The review from the planning commission would  
17 be one of the reviews from -- for the subdivision packet  
18 that we had put together.  
19 Q You had put together a packet?  
20 A Yes.  
21 Q Did the packet include anything about the  
22 moratorium?  
23 A I don't recall.  
24 Q It says that the supervisors state that no  
25 more subdivisions will be approved. Was it put to a formal

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1 Q What did you do in that two years?  
2 A We got subdivision ordinances from different  
3 areas and looked to see what we felt was unique to Jackson  
4 Township because we are a unique area there. And we took  
5 pieces from this subdivision and that subdivision and we put  
6 them together to meet the needs of our township.  
7 Q Who did that work?  
8 A The supervisors.  
9 Q Did you help?  
10 A Yes, I read a lot of subdivision ordinances.  
11 Q So did you have discussions with them over the  
12 telephone about I like this -- part of this subdivision  
13 ordinance and not that part of that other subdivision  
14 ordinance?  
15 A Whether I liked something or not?  
16 Q Whether you thought it would work for Jackson  
17 Township or not.  
18 A That's not my decision.  
19 Q You read a lot of subdivision ordinances,  
20 though?  
21 A Yes, I did.  
22 Q Do you recall what subdivision ordinances you  
23 read?  
24 A We had -- we had one from Porter Township, we  
25 had one from Miller Township, we had one from -- our

99

1 vote or anything?  
2 A I don't recall whether they passed a motion or  
3 -- that's what I wrote down.  
4 Q You don't recall whether they said all in  
5 favor say aye?  
6 A This is what I wrote and this is what I can  
7 testify to.  
8 Q Typically when they do something like this, do  
9 they do it sort of like all in favor say aye, all in favor  
10 say no and --  
11 A Yes, they typically do. And I did not write  
12 that down.  
13 Q If you didn't write it down, does that mean it  
14 didn't happen?  
15 A No.  
16 Q Now, there's another sentence in here that  
17 says that the county is now doing the boiler plate  
18 subdivision ordinance in these minutes.  
19 A Yes, they are.  
20 Q But Jackson Township had already put a lot of  
21 time into the purpose -- do you mean proposed?  
22 A Yes.  
23 Q Proposed ordinance. What do you mean by a lot  
24 of time?  
25 A Two years.

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1 engineer gave us kind of a boiler plate one. We had one  
2 from Tell Township and there was one from Lancaster County.  
3 Q Who is your engineer?  
4 A At the time it was EADS.  
5 Q How do you spell that?  
6 A E-A-D-S, all caps.  
7 Q So why were you the one reading the  
8 ordinances?  
9 A We all were reading them.  
10 Q All the township supervisors and you were  
11 reading them?  
12 A Yes.  
13 Q And then you would discuss them?  
14 A Yes.  
15 Q What, would you hold special meetings to  
16 discuss them or telephone conference calls or what?  
17 A We had workshops to gather information on  
18 them.  
19 Q Were they informal workshops --  
20 A Yes.  
21 Q -- that the group of you just all got  
22 together?  
23 A Yes.  
24 Q Where did you get together?  
25 A Usually in my office.



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1 Q So do you have records of all those meetings  
2 that you held?  
3 A No, they're not -- they were just workshops  
4 for gathering information.  
5 Q Did you keep notes at those meetings or  
6 anything?  
7 A The only notes I would have had I would have  
8 written alongside of whatever we did and ...  
9 Q I'm going to show you another document that  
10 I'm going to mark as Wirth Exhibit 7, the April 3, 2000  
11 minutes of the Jackson Township supervisor meeting.  
12 (Minutes dated 4/3/00 produced and marked as  
13 Wirth Exhibit No. 7.)  
14 BY MS. MONTGOMERY:  
15 Q Now, can you review these minutes for me?  
16 A Sure.  
17 Q Can you identify them for the record?  
18 A Yes, April 3rd, 2000 minutes, Jackson Township  
19 Board of Supervisors.  
20 Q Now, take a moment and review them and see if  
21 it helps you remember what went on at the meeting that  
22 night. Now, this April 3rd meeting, is this the meeting  
23 that the Hewetts were present at, correct?  
24 A Yes.  
25 Q Who else was present?

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1 A Well, I can see here Art Walters was there,  
2 David Corneal and I don't -- I remember Denson Groenendaal  
3 was there that night.  
4 Q And why do you remember that?  
5 A Because he spoke to Mr. Corneal that night.  
6 Q He spoke to him in the course of the meeting?  
7 A No, I think it was after.  
8 Q So you overheard that conversation?  
9 A No, I just saw them talking and I remembered  
10 that. I don't know why.  
11 Q Anything else you remember about the meeting?  
12 A No.  
13 Q Now, these meetings would indicate that Mr.  
14 Corneal at the April meeting discussed his sewage module,  
15 right?  
16 A Yes, he did.  
17 Q Do you know whether this was the first time  
18 Mr. Corneal ever came to a meeting and discussed his sewage  
19 module?  
20 A To the best of my knowledge.  
21 Q To the best of your knowledge it was?  
22 A Um-hum.  
23 Q Your minutes indicate that he complained that  
24 the supervisors would not sign his sewage modules; is that  
25 right?

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1 A That's right.  
2 Q What did the supervisors respond to him in  
3 response to that complaint?  
4 A Just what I have here.  
5 Q Well, try and remember what they said to him,  
6 if you can.  
7 A That they couldn't approve the septic modules,  
8 the sewage module.  
9 Q Now, your minutes indicate that they said that  
10 even though he told them that he was not going to subdivide,  
11 okay, that they still wouldn't issue him a building permit  
12 or approve the sewage module; isn't that correct?  
13 A Let me see what it says here. What's in my  
14 minutes is what happened.  
15 Q Okay, that's fair. Your minutes indicate that  
16 they said they are not going to issue a building permit for  
17 a property that they know is going to be subdivided. How  
18 did they know it was going to be subdivided?  
19 A Because at a prior meeting he -- he had a plot  
20 plan in his hand, and I guess that was the February meeting.  
21 Q So was there a discussion between the February  
22 meeting and the April meeting about Mr. Corneal's desire to  
23 subdivide?  
24 A Discussion with who?  
25 Q With you and the supervisors.

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1 A Not that I'm aware of.  
2 Q During this period of time were you still  
3 meeting to discuss the subdivision ordinance, the proposed  
4 subdivision ordinance?  
5 A It was probably being typed then so I doubt --  
6 I don't know.  
7 Q How many times did you and the supervisors  
8 have workshops to discuss the subdivision ordinance?  
9 A I have no idea.  
10 Q You can't remember at all?  
11 A No. It went on over a long period of time.  
12 Q Do you recall speaking yourself at the April  
13 meeting?  
14 A I probably did.  
15 Q You probably did?  
16 A (Witness nods head affirmatively.)  
17 Q Do you usually speak at the meetings?  
18 A Sometimes.  
19 Q Now, I know that you said that you don't have  
20 a vote, correct?  
21 A I do not have a vote.  
22 Q But you do speak at the meetings about  
23 township business?  
24 A Sometimes.  
25 Q And you offer your opinions about township

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<p style="text-align: right;">106</p> <p>1 business?</p> <p>2 <b>A Sometimes.</b></p> <p>3 Q Do you recall speaking at this meeting?</p> <p>4 <b>A No.</b></p> <p>5 Q You don't recall anything? Do you recall</p> <p>6 telling Mr. -- she shook her head. It should say no.</p> <p>7 <b>A I didn't think you were done yet.</b></p> <p>8 MR. SHERR: And it shouldn't say no if she</p> <p>9 didn't say no.</p> <p>10 MS. THORP: Can we go off the record for one</p> <p>11 moment?</p> <p>12 MS. MONTGOMERY: Yes.</p> <p>13 (Discussion held off the record.)</p> <p>14 BY MS. MONTGOMERY:</p> <p>15 Q At the April meeting do you recall speaking</p> <p>16 directly to Mr. Corneal about his sewage modules or about</p> <p>17 his proposed subdivision?</p> <p>18 <b>A I might have. I don't remember.</b></p> <p>19 Q Well, do you have an opinion about whether or</p> <p>20 not Mr. Corneal can build on his property even if he doesn't</p> <p>21 subdivide?</p> <p>22 <b>A No.</b></p> <p>23 Q You don't have an opinion about that?</p> <p>24 <b>A No.</b></p> <p>25 Q Do you have an opinion about whether or not</p>	<p style="text-align: right;">108</p> <p>1 <b>or I had an understanding and that's what I understand.</b></p> <p>2 Q And I don't want to use the wrong word. If I</p> <p>3 say an opinion or a belief and you want to call it something</p> <p>4 else like an understanding, then you should just tell me</p> <p>5 that because I'm just trying to --</p> <p>6 MR. SHERR: No, you should answer her</p> <p>7 questions.</p> <p>8 BY MS. MONTGOMERY:</p> <p>9 Q And if you don't understand my question</p> <p>10 correctly and you could answer if it was better stated, you</p> <p>11 should tell me that, okay?</p> <p>12 MR. SHERR: If you don't understand her</p> <p>13 question, ask her to clarify.</p> <p>14 THE WITNESS: All right.</p> <p>15 BY MS. MONTGOMERY:</p> <p>16 Q So I've asked you some questions about whether</p> <p>17 or not you have a belief about certain things so I'm going</p> <p>18 to back up and ask you if you have an understanding about</p> <p>19 certain things, okay?</p> <p>20 <b>A I have an understanding.</b></p> <p>21 Q You have an understanding --</p> <p>22 MR. SHERR: Let her ask the questions.</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q You just said you have an understanding. What</p> <p>25 do you have an understanding about?</p>
<p style="text-align: right;">107</p> <p>1 Mr. Corneal can build a second property -- a second house,</p> <p>2 dwelling, on his property?</p> <p>3 <b>A I don't have an opinion, no.</b></p> <p>4 Q Do you have a belief about whether or not he</p> <p>5 can do it?</p> <p>6 <b>A No.</b></p> <p>7 Q Did you ever express an opinion or a belief</p> <p>8 about whether or not he could do it?</p> <p>9 <b>A I don't recall.</b></p> <p>10 Q Do you have an opinion about whether or not</p> <p>11 building a second dwelling on the property turns it into a</p> <p>12 subdivision?</p> <p>13 <b>A I don't have an opinion, no.</b></p> <p>14 Q Do you have a belief about it?</p> <p>15 <b>A No.</b></p> <p>16 Q Have you ever expressed anything about it?</p> <p>17 <b>A I might have.</b></p> <p>18 Q What makes you think you might have?</p> <p>19 <b>A Because of what's in the Sewage Facility Act.</b></p> <p>20 Q What's in the Sewage Facility Act?</p> <p>21 <b>A That if there's more than one dwelling on a</b></p> <p>22 <b>property, it constitutes an equivalent subdivision. And I</b></p> <p>23 <b>may have said that, I don't know.</b></p> <p>24 Q You may have said that when?</p> <p>25 <b>A I don't know. You asked me if I had a belief</b></p>	<p style="text-align: right;">109</p> <p>1 <b>A You have to ask me the question again.</b></p> <p>2 Q Okay. Do you have an understanding as to</p> <p>3 whether or not Mr. Corneal can build an additional house on</p> <p>4 his property?</p> <p>5 <b>A I do.</b></p> <p>6 Q And what is your understanding?</p> <p>7 <b>A From the Sewage Facility Act, if there's more</b></p> <p>8 <b>than one property on an existing plot of ground, it's an</b></p> <p>9 <b>equivalent subdivision.</b></p> <p>10 Q Well, then do you have an understanding as to</p> <p>11 whether or not Mr. Corneal can subdivide his property?</p> <p>12 <b>A Anybody can subdivide their property.</b></p> <p>13 Q Did you ever discuss this equivalent</p> <p>14 subdivision idea with Larry Newton?</p> <p>15 <b>A I don't understand what you're asking me.</b></p> <p>16 Q Did you ever discuss your understanding of</p> <p>17 what constitutes an equivalent subdivision with Larry</p> <p>18 Newton?</p> <p>19 <b>A I don't recall.</b></p> <p>20 Q Did you ever discuss it with the township</p> <p>21 supervisors?</p> <p>22 <b>A I probably did.</b></p> <p>23 Q And what makes you think you probably did?</p> <p>24 <b>A Because the subject comes up by land owners so</b></p> <p>25 <b>we probably did.</b></p>

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1 MS. MONTGOMERY: I think we need to take a  
2 break for a minute.  
3 (Luncheon recess taken.)  
4 MR. SHERR: Counsel for plaintiff has asked me  
5 to repeat my statement yesterday with respect to the  
6 30(b)(6) notice. The 30(b)(6) notice stated the subject  
7 matter as all persons who -- or a person who has knowledge  
8 or information regarding matters relating to the defense of  
9 this claim.  
10 In that that designation did not reasonably --  
11 with reasonable particularity state the matters on which  
12 these admonitions are requested, we were objecting to that  
13 designation and to the extent that -- to the extent of the  
14 broadness of that designation, for the time being and  
15 subject to that objection, we are designating all of these  
16 witnesses as those who have knowledge of the matter or the  
17 defense.  
18 MS. MONTGOMERY: For the record, I did not ask  
19 Mr. Sherr to repeat his statement on the record. I asked  
20 him to tell me off the record are all the witnesses 30(b)(6)  
21 witnesses because that's what he indicated yesterday. I was  
22 asking if he was sticking with that position and I believe  
23 that what you said is yes, all the witnesses are 30(b)(6)  
24 witnesses; is that correct?  
25 MR. SHERR: I've made my statement.

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1 MS. MONTGOMERY: It's a simple yes or no  
2 question.  
3 MR. SHERR: Okay.  
4 MS. MONTGOMERY: Okay, is this witness a  
5 30(b)(6) witness?  
6 MR. SHERR: I've made my statement.  
7 MS. MONTGOMERY: Is this witness a 30(b)(6)  
8 witness, Tony? It's not a game. Is this witness a 30(b)(6)  
9 witness?  
10 MR. SHERR: I'm not playing a game. I've made  
11 my statement. If you would like to -- if you would like to  
12 make a note of a particular designation, then I will tell  
13 you particularly, but I can't do that based on the broadness  
14 of the designation. So, therefore, I'm sticking by my  
15 statement.  
16 MS. MONTGOMERY: Are you sticking by the  
17 statement that you put on the record yesterday morning?  
18 MR. SHERR: Sure.  
19 MS. MONTGOMERY: Okay, fine. Thank you.  
20 BY MS. MONTGOMERY:  
21 Q You're still under oath. Miss Wirth, I'm  
22 going to show you a document that was previously marked  
23 yesterday as an exhibit. We're going to mark it again today  
24 as Wirth Exhibit 8 and I'm going to ask you to look at it  
25 for me, please.

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1 (Order produced and marked as Wirth Exhibit  
2 No. 8.)  
3 BY MS. MONTGOMERY:  
4 Q Miss Wirth, have you seen this document  
5 before?  
6 A No.  
7 Q Miss Wirth, were you informed by anybody that  
8 the witnesses in this case were to be sequestered for  
9 purposes of their deposition testimony?  
10 A Yesterday I was.  
11 Q Yesterday you were informed by who?  
12 A You.  
13 Q Do you know what sequestration means?  
14 A We were not allowed to be in the room.  
15 Q Are you aware that you're not supposed to be  
16 in the room with the other deponents?  
17 A I am now, yeah.  
18 Q Well, I shouldn't say that. You're not  
19 supposed to be in the room with the other deponents while  
20 they're being -- while they're giving testimony, correct?  
21 A Yes.  
22 Q Have you discussed your deposition testimony  
23 with anybody since this morning?  
24 A No.  
25 Q Have you discussed anybody else's deposition

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1 testimony with anybody since yesterday?  
2 A No.  
3 Q Do you understand that you're not supposed to  
4 discuss your deposition testimony with any of the other  
5 deponents?  
6 A Yes.  
7 Q Until all the depositions are finished?  
8 A Yes.  
9 Q Have you complied with that?  
10 A Yes.  
11 Q Have you been in a room with any of the other  
12 deponents in a situation where you could discuss your  
13 deposition testimony since this order was entered yesterday?  
14 A In a room, no.  
15 Q In any situation?  
16 A Yes.  
17 Q What was that situation?  
18 A It was in a car.  
19 Q Who did you have lunch with?  
20 A Tom Wilson.  
21 Q Did you discuss your deposition testimony with  
22 Mr. Wilson?  
23 A No.  
24 Q You had lunch with Tom Wilson today, though,  
25 right?

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1 A Yes.  
2 Q Was anybody else present?  
3 A No.  
4 Q Thank you. I'm going to show you a document  
5 that we will now mark as Wirth Exhibit 9 and ask you to look  
6 at it and identify it for me, if you can.  
7 MS. MONTGOMERY: Tony, do you have another  
8 copy of this document?  
9 (Discussion held off the record.)  
10 (Subdivisions reviewed by HCPC produced and  
11 marked as Wirth Exhibit No. 9.)  
12 BY MS. MONTGOMERY:  
13 Q Did you have occasion to discuss with any of  
14 the supervisors or the sewage enforcement officer, Mr.  
15 Parks, bringing documents to their depositions? And I'm  
16 talking about before the order was entered yesterday.  
17 A **Bringing documents down?**  
18 Q To the deposition.  
19 A No.  
20 Q Did you tell anybody not to bring documents to  
21 the deposition?  
22 A **No, I did not.**  
23 Q Did anybody tell you not to bring documents to  
24 the deposition?  
25 A No.

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1 Q Then just to make sure that I've asked the  
2 questions as clearly as possible, did you discuss with the  
3 supervisors whether or not you ought to bring any documents  
4 to the deposition?  
5 A **I honestly don't think we ever did.**  
6 Q What's the box number that you receive  
7 township mail at?  
8 A **389-A.**  
9 Q And your home box number?  
10 A **390.**  
11 Q We're back with Wirth Exhibit 9. Have you had  
12 a moment to look at that?  
13 A Yes.  
14 Q Do you recognize the document?  
15 A **Yes, I do.**  
16 Q Did you prepare it?  
17 A **No, I did not.**  
18 Q Do you know whose handwriting that is?  
19 A **I have no idea whose handwriting it is.**  
20 Q Do you know who prepared it?  
21 A **I know where it came from.**  
22 Q Where did it come from?  
23 A **Huntingdon County Planning Commission.**  
24 Q And did it come from the commission in  
25 response to a request from you?

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1 A **Yes, it did.**  
2 Q So you put the request into whom, Richard  
3 Stahl?  
4 A **Yes, I did.**  
5 Q How did you receive this document?  
6 A **Just the way it is.**  
7 Q Was it by fax?  
8 A **By fax to me.**  
9 Q From the Huntingdon County Planning  
10 Commission?  
11 A **Yes.**  
12 Q When did you receive it?  
13 A **Today is -- Monday or Tuesday, one or the**  
14 **other.**  
15 Q Just this Monday or Tuesday?  
16 A **Yes.**  
17 Q When did you --  
18 A **It must have been Tuesday, right. I think. I**  
19 **don't know.**  
20 Q So exactly what did you ask for from Richard  
21 Stahl that resulted in his production -- did he send you  
22 this document?  
23 A **Yes.**  
24 Q Under a fax sheet from him?  
25 A **Yes.**

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1 Q So we don't know whether this is his  
2 handwriting or not, do we?  
3 A **No.**  
4 Q Do you assume that he's actually the one who  
5 put this together, though?  
6 A **I'm assuming that somebody in his office keeps**  
7 **this -- this is out of a book, I believe, out of a --**  
8 Q Okay. So you don't think that this document  
9 was put together just for purposes of your request but  
10 rather it was an existing document?  
11 A **I assume that it's an existing document.**  
12 Q From the Huntingdon County Planning Commission  
13 offices?  
14 A **Right.**  
15 Q Exactly what did you ask for from Mr. Stahl  
16 that led him to give you this document?  
17 A **I asked him for a list of all subdivisions,**  
18 **minor and major, that we have sent to him and when we**  
19 **started to do it.**  
20 Q Did you ask him when did we start to do it?  
21 A **Yes.**  
22 Q And what did he tell you?  
23 A **He said as -- he's been there since 1980 and**  
24 **they've been doing it ever since.**  
25 Q Been sending all subdivisions to Huntingdon

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1 County for their review?  
2 A **Review, right.**  
3 Q What is your understanding with respect to  
4 Huntingdon County's review of proposed subdivisions in  
5 Jackson Township?  
6 A **What is my understanding?**  
7 Q Yes.  
8 A **I don't know what you mean.**  
9 Q How much knowledge do you have about  
10 Huntingdon County Planning Commission's review of proposed  
11 subdivisions that you send to the county, to the commission?  
12 A **I have no idea what they do.**  
13 Q You have no idea what they do?  
14 A **No, I've never been in the office to see what**  
15 **they do.**  
16 Q Are you the one that sends the subdivisions?  
17 A **No.**  
18 Q I mean subdivision plans.  
19 A **No, I do not.**  
20 Q Who sends them?  
21 A **The individuals take them in there. The**  
22 **people that are asking for the subdivision, they take them**  
23 **to Richard.**  
24 Q Who tells them to take them to Richard?  
25 A **The township does.**

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1 Q Who in the township tells them?  
2 A **The supervisors or me.**  
3 Q Are you generally aware of every subdivision  
4 plan that goes to the commission?  
5 A **Generally.**  
6 Q Do you believe that you're aware of every  
7 subdivision plan that's come into the township since you've  
8 been there?  
9 A **Generally.**  
10 Q Do you believe that you know whether or not  
11 every subdivision plan has been sent to the county since  
12 you've been there?  
13 A **Yes.**  
14 Q You think every one has?  
15 A **To the best of --**  
16 MR. SHERR: Object to the form of the  
17 question, asking this witness about other people's  
18 knowledge. You can answer.  
19 THE WITNESS: Yes.  
20 MS. MONTGOMERY: No, I asked her what she  
21 knows.  
22 BY MS. MONTGOMERY:  
23 Q I'm asking you what you know. Do you believe  
24 that every one has been sent?  
25 A **To the best of my knowledge.**

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1 Q Had you ever seen this document before --  
2 A **No, I had not.**  
3 Q -- before you received it from Mr. Stahl's  
4 office?  
5 A **No.**  
6 Q When did you ask the planning commission to  
7 send you this document?  
8 A **When I was putting together the list of**  
9 **documents that you wanted for -- I thought it would be**  
10 **helpful.**  
11 Q And when was that?  
12 A **Last week.**  
13 Q Now, these are all Jackson Township  
14 subdivisions, correct?  
15 A **Yes.**  
16 Q The ones that are listed on here. Okay, let's  
17 go through this list. Do you understand this list?  
18 A **Yes.**  
19 Q Do you understand the various categories on  
20 it?  
21 A **Yes.**  
22 Q So the 10/1/90 date in the left-hand corner,  
23 the first entry there --  
24 A **Yes.**  
25 Q -- does that refer to the date that the

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1 subdivision was approved or what?  
2 A **I don't know. I said I understand that. I**  
3 **understand the information that's on here, but I don't know**  
4 **why it says 10/1/90 there. I don't know if it's the date**  
5 **they received it or the date they reviewed it. That I don't**  
6 **know.**  
7 Q Are these all requested subdivision plans or  
8 are some approved, some not approved and is it just all the  
9 subdivision plans that have been submitted; is that what  
10 this is?  
11 A **Yes.**  
12 Q To the commission?  
13 A **Yes.**  
14 Q Did you actually go down this list and read it  
15 at any time?  
16 A **I've looked at it.**  
17 Q In looking at it, do you know whether there  
18 are any subdivision plans that have been submitted to  
19 Jackson Township that aren't on this list?  
20 A **Not to the best of my knowledge.**  
21 Q Do you keep your own list of subdivision  
22 plans?  
23 A **No, I do not.**  
24 Q Well, do you keep your own file on subdivision  
25 -- proposed subdivisions --



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<p style="text-align: right;">122</p> <p>1 A Yes.</p> <p>2 Q -- submitted -- can I finish, please.</p> <p>3 A I'm sorry.</p> <p>4 Q Submitted to Jackson Township.</p> <p>5 A Yes, I do.</p> <p>6 Q In what form do you keep that file?</p> <p>7 A Just the way it comes to me.</p> <p>8 Q Do you keep a separate folder for each one?</p> <p>9 A No.</p> <p>10 Q Something like that?</p> <p>11 A No, they're all in a drawer.</p> <p>12 Q Just all in one big drawer?</p> <p>13 A Right.</p> <p>14 Q Are they organized by date?</p> <p>15 A They are.</p> <p>16 Q That's how they're organized. They're not</p> <p>17 organized by alphabetical order or anything?</p> <p>18 A No, by date.</p> <p>19 Q By date, okay. Typically what does a</p> <p>20 subdivision plan look like?</p> <p>21 A It's a plot plan similar to what we have here.</p> <p>22 Q Is there any sort of front page application or</p> <p>23 anything like that?</p> <p>24 A There's usually an application. There's a</p> <p>25 project narrative, there's septic information, there's a</p>	<p style="text-align: right;">124</p> <p>1 Q Have you received any subdivision -- proposed</p> <p>2 subdivisions that utilize that form?</p> <p>3 A Yes, and they're the ones that are on this</p> <p>4 list.</p> <p>5 Q Since July 2000?</p> <p>6 A Yes.</p> <p>7 Q So that would be six of them --</p> <p>8 A Yes.</p> <p>9 Q -- correct? So they all have front pages that</p> <p>10 you could produce to us just the front page, right?</p> <p>11 A Yes.</p> <p>12 Q Now, when Jackson Township approves a</p> <p>13 subdivision, is there any sort of separate form that you</p> <p>14 guys have come up with that indicates approval?</p> <p>15 A We sign on the form, on the plot plan.</p> <p>16 Q Now, I think, you know, we've heard testimony</p> <p>17 in this case -- I'll represent to you that we've heard</p> <p>18 testimony in this case that there were certain proposed</p> <p>19 subdivisions that had been submitted at the time that the</p> <p>20 township put its moratorium in place; is that correct?</p> <p>21 A Yes.</p> <p>22 Q Do you recall which --</p> <p>23 A Yes.</p> <p>24 Q -- those were? Which ones?</p> <p>25 A Glenn Hawbaker and Norman Davis, Harold and</p>
<p style="text-align: right;">123</p> <p>1 topo area either on or attached to it.</p> <p>2 Q If there's an application, is there like a</p> <p>3 state form application or something that they fill out that</p> <p>4 is sort of a cover application for all of these --</p> <p>5 A There is now.</p> <p>6 Q There is now?</p> <p>7 A It's not a state form.</p> <p>8 Q What is it?</p> <p>9 A It's in the subdivision ordinance.</p> <p>10 Q It's in the Jackson --</p> <p>11 A It's the application for subdivision.</p> <p>12 Q Well, let me ask you this: In the Jackson</p> <p>13 Township subdivision ordinance there's an application?</p> <p>14 A Correct.</p> <p>15 Q Prior to the application was there some sort</p> <p>16 of a form, initial form that people filled out in submitting</p> <p>17 a proposed subdivision?</p> <p>18 A No.</p> <p>19 Q Was there any sort of a cover sheet or</p> <p>20 anything like that that would identify it or --</p> <p>21 A Whatever the engineer had on there that came</p> <p>22 to us is what we had.</p> <p>23 Q Now, I take it that the form has been in place</p> <p>24 since July 2000?</p> <p>25 A Yes.</p>	<p style="text-align: right;">125</p> <p>1 Norman Davis.</p> <p>2 Q Glenn Hawbaker?</p> <p>3 A Yeah, Glenn O. Hawbaker and Carolyn McGraw and</p> <p>4 then Norman and Harold Davis.</p> <p>5 Q So what happened to those proposed</p> <p>6 subdivisions during the period of time that the moratorium</p> <p>7 was in place?</p> <p>8 A Nothing.</p> <p>9 Q What did you do with the actual documents that</p> <p>10 were submitted to you?</p> <p>11 A They -- they never submitted them. They came</p> <p>12 to us and asked us if they could do it and we told them we</p> <p>13 weren't submitting them and they have -- they kept their</p> <p>14 documents till July.</p> <p>15 Q And then they resubmitted them to you?</p> <p>16 A Yes, they did.</p> <p>17 Q And then they submitted them also to the</p> <p>18 Huntingdon County Planning Commission?</p> <p>19 A Yes. I don't know whether they submitted them</p> <p>20 before that to the county. I don't know when they did that.</p> <p>21 Q What about the ones that are after the Davis</p> <p>22 application? I can't really read that writing. Do you</p> <p>23 recognize that?</p> <p>24 A That's Keller.</p> <p>25 Q Was that subdivision first proposed after --</p>



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1 A No.  
2 Q -- the ordinance was in place?  
3 A No, it was -- I'm sorry. Repeat your  
4 question.  
5 Q Was that subdivision first proposed after the  
6 ordinance was in place?  
7 A Yes.  
8 Q Do you recall, is 9/27/00 when it was first--  
9 A I don't recall if that's the exact date, but  
10 it's around that time.  
11 Q What's the next one say? David Simpson?  
12 A Oh, yeah, David Simpson.  
13 Q And the following one is Overhill, LLC?  
14 A Yes.  
15 Q And the following one is Darlene --  
16 A Sunderland.  
17 Q Sunderland. Now, have each of these proposed  
18 subdivisions been sent to the Huntingdon County Planning  
19 Commission?  
20 A Yes, they have.  
21 Q Have they each been approved?  
22 A Yes.  
23 Q All of them?  
24 A Yes.  
25 Q We have one right before this Corneal entry.

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1 Q Koch subdivision, was that approved?  
2 A Yes.  
3 Q If you look down over this list of  
4 subdivisions on the first page of this document, starting  
5 with the Kenneth Miller, Kenwood Development and ending with  
6 the one on the bottom -- I can't read that.  
7 A Greenwood Furnace.  
8 Q Were all of these subdivisions approved to  
9 your knowledge?  
10 A Yes.  
11 Q Were any of them disapproved at any time to  
12 your knowledge?  
13 A I don't -- I don't remember.  
14 Q I mean, was there any initial disapproval and  
15 then a later approval?  
16 A There could be initial disapproval of all  
17 these.  
18 Q But you don't know whether any of them were or  
19 you do know?  
20 A I do know. There's a couple here.  
21 Q Which?  
22 A Sunderland.  
23 Q That's on the back page, the last one?  
24 A Yeah, I do know that.  
25 Q And why was that one initially disapproved?

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1 It says --  
2 A Lelia Isett.  
3 Q Lelia Isett?  
4 A Um-hum.  
5 Q Was that subdivision plan approved?  
6 A Yes.  
7 Q What about -- what does that say, Jordan  
8 Conrad?  
9 A Yes.  
10 Q Was that approved?  
11 A Yes.  
12 Q Going backwards now, Jos E. and Pauline Baker,  
13 was that approved?  
14 A That one was submitted twice.  
15 Q Why was it submitted twice?  
16 A It was just what they did. They were going to  
17 build and then they didn't and then they did.  
18 Q Was it approved?  
19 A Yes.  
20 Q How about this Kenwood subdivision?  
21 A Yes.  
22 Q Was that approved?  
23 A Yes.  
24 Q The Koch -- oh, is that the Koch?  
25 A Yeah, Koch.

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1 A It wasn't drawn to scale. And I think --  
2 you're going to have to ask Tom that, but I think it had  
3 something to do too with there was a bridge over a stream on  
4 the property and it had something to do with that bridge and  
5 the stream. And I don't remember what it was, but I know  
6 that was one that he did what he had to do and came back.  
7 Q Now, on the Sunderland property, that's 85  
8 acres, 85 plus acres divided --  
9 A Oh, I'm sorry. It was Simpson, is the one I  
10 was talking about with the bridge.  
11 Q Okay. Well, let's look. On the Simpson  
12 property it's 107 acres, right?  
13 A Yes.  
14 Q Divided into two lots?  
15 A Right.  
16 Q Do you know what's going to happen on those  
17 two lots?  
18 A One -- it's a hunting camp and they're  
19 separating the hunting camp and David Simpson's property  
20 where he's going to build a house.  
21 Q What about the Overhill, LLC?  
22 A That's a farm they bought in Ennisville and I  
23 don't know what they're doing there. I mean, they're  
24 building -- it was a land development. It wasn't a -- oh, I  
25 know. I do know. There's a farmhouse there and they built

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1 a log house and they had two dwellings on that property. So  
2 that's why they did that.  
3 Q So that's why they subdivided it?  
4 A They did a land development.  
5 Q A land development. A land development plan  
6 you mean?  
7 A Yes.  
8 Q So when did they build the log house?  
9 A I don't know if -- I don't know if it's built  
10 yet. I don't know. That's -- they're working -- I don't  
11 know. I can't see that from the -- I don't know.  
12 Q So underneath lots it says one lot, second  
13 dwelling.  
14 A Yes, it has a farmhouse there.  
15 Q Let's see, and then the Sunderland property,  
16 do you know what the plans are for that place?  
17 A That's -- a father is dividing off the ground  
18 for one of the boys and I don't know what he's going to do  
19 with the other part.  
20 Q Is there a dwelling on that property?  
21 A Yes, there is a dwelling on that property.  
22 Q Is there more than one?  
23 A No.  
24 Q There's one house on it?  
25 A Um-hum.

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1 Q He's going to divide it and build on the other  
2 half?  
3 A He said he doesn't know what he's going to do  
4 with it. He's giving the son the house and some acreage and  
5 the rest of it he's not sure what he's going to do with it.  
6 Q Do you know if he has any plans to subdivide?  
7 A I asked him that and he does not know.  
8 Q Now, let's see, there's a -- W. Thomas Wilson,  
9 who is that?  
10 A Yes.  
11 Q This is on the first page, 9/3/97.  
12 A That's our supervisor.  
13 Q He's your township supervisor?  
14 A Yes.  
15 Q And he submitted a subdivision plan for 12  
16 acres, correct?  
17 A Yes.  
18 Q To divide into three lots?  
19 A Yes, that's what it says.  
20 Q And what is on that property?  
21 A His shop and the next property is his son's  
22 house and I think -- and the next one -- I'm not sure if  
23 there's anything in between there or not, I don't know, and  
24 then there's a -- the other boy has a trailer. They're all  
25 along there.

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1 Q Now, when he subdivided, did he build anything  
2 after he subdivided?  
3 A (Witness shook her head negatively.)  
4 Q Everything was on there and they just broke it  
5 up?  
6 MR. SHERR: You have to answer out loud.  
7 THE WITNESS: I'm sorry.  
8 MR. SHERR: That's okay.  
9 THE WITNESS: No, he did not build anything on  
10 it. That was in '97. His son had a house that he had  
11 started and I'm not sure whether it was completed then or  
12 not. I don't remember that, but it is there now. There's a  
13 house and his shop and a trailer.  
14 BY MS. MONTGOMERY:  
15 Q Are there any other township officials or --  
16 you know, either supervisors or former supervisors or sewage  
17 enforcement officers or anything like that on this list of  
18 individuals who have sought subdivisions in Jackson  
19 Township?  
20 A Not that I see.  
21 Q Who's Overhill, LLC?  
22 A It's Henwood. Jerry and Tom Henwood, I  
23 believe, from somewhere in -- near Philadelphia. It's a --  
24 they're either going to or have built a place where they're  
25 going to raise game birds. That's all I can tell you.

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1 Q I see there's another Hawbaker on this --  
2 5/5/98.  
3 A Okay, that's Monty.  
4 Q A different Hawbaker than the other one?  
5 A Daughter and son-in-law.  
6 Q So they're related to the Glenn and Barbara  
7 Hawbaker, correct?  
8 A That's correct.  
9 Q Are those contiguous pieces of property?  
10 A No.  
11 Q Are they close to each other?  
12 A No.  
13 Q I think you testified that the subdivision  
14 ordinance had been under consideration for at least two  
15 years which takes you back to the summer of 1998, correct?  
16 A Somewhere in there. I cannot tell you the  
17 exact date we started it.  
18 Q Now, I see -- if we start say -- let's just  
19 take it -- let's take it from September 30th, 1998 and go  
20 down to 2/10/2000 -- I'm sorry, 12/13/1999, okay?  
21 A Okay.  
22 Q Were any of those proposed subdivisions  
23 rejected because there was going to be a subdivision  
24 ordinance put in place?  
25 A No.

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1 Q Was there any moratorium placed on  
2 subdivisions when those people came and asked you if they  
3 could subdivide?  
4 A No.  
5 Q Now, during the period of time that the  
6 moratorium was in place, did any of the subdivision plans go  
7 to the Huntingdon County Planning Commission to your  
8 knowledge?  
9 A **The only two that I know is Mr. Corneal's.**  
10 Q Mr. Corneal's went there?  
11 A **And I can't say about Hawbakers and Davis.**  
12 **I'm not sure what they did, when they took them in there.**  
13 **(Discussion held off the record.)**  
14 **BY MS. MONTGOMERY:**  
15 Q Now, when an individual takes their  
16 subdivision plan to the Huntingdon County Planning  
17 Commission, do you get some sort of notice from the  
18 commission?  
19 A **We get a letter. When they've reviewed it, we**  
20 **get a letter.**  
21 Q When they've reviewed it?  
22 A **Right.**  
23 Q Do you keep copies of those letters?  
24 A **They should all be attached to the document**  
25 **when we approve it.**

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1 at all related to the Hewetts?  
2 A **No.**  
3 Q Did you get a bridge permit from a government  
4 agency regarding the Corneal property?  
5 A **No, I did not.**  
6 Q Let me ask you this: When you say you have an  
7 application for a proposed subdivision, right?  
8 A **Yes.**  
9 Q And you keep that in a file, right?  
10 A **Right.**  
11 Q What do you consider to be part of the  
12 application?  
13 A **When?**  
14 Q At any time. If you have a completed  
15 subdivision file, what all is in that file?  
16 A **From the time the ordinance was in or from**  
17 **before because --**  
18 Q From before.  
19 A **From before there was everything -- the same**  
20 **as after except for the application.**  
21 Q Except for the application form, okay. So in  
22 order for you to -- in order for the township to approve a  
23 proposed subdivision it has to go to the county first,  
24 right?  
25 A **No, it can come to the meeting first. It can**

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1 Q Did you provide us with copies of those  
2 letters?  
3 A **No, you didn't ask me for that.**  
4 Q Let me ask you this: Did you receive any  
5 correspondence from any government agency, you personally as  
6 a -- in your -- I shouldn't say personally. You in your  
7 capacity as township secretary and treasurer receive  
8 correspondence from any government agency about the  
9 Corneal's property?  
10 A **Are you talking about the county planning**  
11 **commission?**  
12 Q Any government agency, Army Corps of  
13 Engineers, Commonwealth of Pennsylvania, DEP.  
14 A **I did not receive anything from the Army Corps**  
15 **of Engineers, no.**  
16 Q Anybody else?  
17 A **The county planning commission and soil**  
18 **conservation commission, Huntingdon County Soil**  
19 **Conservation, whatever that is.**  
20 Q Did you provide all of the documents that --  
21 A **Yes, I did.**  
22 Q -- you had in your possession from any  
23 government agency?  
24 A **Excuse me. Yes, I did.**  
25 Q What about -- did you have any correspondence

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1 **be on the agenda and it can come to the meeting first, but**  
2 **you're going to have to send it to the county.**  
3 Q That wasn't exactly my question but -- so I'll  
4 just repeat it. In order for you to actually issue final  
5 approval for the township to do it, it has to have gone to  
6 the county first, correct?  
7 A **It has to have gone to the county but not**  
8 **first. There's a -- you know --**  
9 Q Well, it has to have gone to the county prior  
10 to you issuing approval?  
11 A **That's right.**  
12 Q That's what I'm trying to say.  
13 A **Okay, that's right.**  
14 Q So part of the whole subdivision file is going  
15 to include any correspondence that you got from the county,  
16 correct?  
17 A **Right.**  
18 Q Do you consider what the county has to say as  
19 approval or disapproval in connection with a proposed  
20 subdivision?  
21 A **That's not for me to do. I mean, I don't**  
22 **approve or not approve subdivisions.**  
23 Q Let me put it this way: If the supervisors  
24 are going to look at a proposed subdivision plan and decide  
25 whether or not they're going to approve it, right?

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1 A Okay.  
2 Q They're going to look and see whether the  
3 county planning commission has reviewed it first?  
4 A Yes.  
5 Q What do they see in order to tell them that  
6 the county planning commission has reviewed it? What do  
7 they see in the file?  
8 A A letter.  
9 Q A letter from the county planning commission?  
10 A That's exactly right.  
11 Q That says we've received it and we're  
12 reviewing it?  
13 A That says we've received it and reviewed it.  
14 Q So it's part of the approval process, correct,  
15 for the supervisors to see what the county planning  
16 commission has to say?  
17 A That's right.  
18 Q I'm going to show you a document that we have  
19 -- we're going to mark as Wirth Exhibit 10.  
20 (Letter dated 4/20/00 produced and marked as  
21 Wirth Exhibit No. 10.)  
22 (Discussion held off the record.)  
23 MS. MONTGOMERY: We'll mark the February 24th  
24 one as Wirth 11.  
25 (Letter dated 2/24/00 produced and marked as

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1 Q Do you know when Mr. Corneal submitted his  
2 proposed subdivision to Huntingdon County?  
3 A I only know what's on here. After our first  
4 meeting it says 2/10 and then 4/11.  
5 Q Do you understand him to have submitted the  
6 subdivision then twice --  
7 A Yes.  
8 Q -- to the commission? Did you discuss the  
9 moratorium with the planning commission?  
10 A Probably.  
11 Q Do you recall who you discussed it with?  
12 A I would only discuss it with Richard Stahl.  
13 Q Did you ask him for any advice about whether  
14 or not you could put in a moratorium?  
15 A I don't know whether we talked to him about  
16 that or not. I probably asked him for procedures, but I  
17 don't know whether I did or not.  
18 Q Did you ever discuss the township's  
19 disapproval of Mr. Corneal's sewage modules with Larry  
20 Newton?  
21 A I probably told him that we weren't going to  
22 sign them.  
23 Q Did you ask him for any guidance in connection  
24 with whether or not you should sign them?  
25 A I don't know whether I asked him for guidance

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1 Wirth Exhibit No. 11.)  
2 BY MS. MONTGOMERY:  
3 Q Let's take Wirth Exhibit 11 first. I'm sorry  
4 to take them out of order, but that's the way it happens.  
5 Are you familiar with that document, Miss Wirth?  
6 A Pardon? I only have one. I have February 24.  
7 Q That is going to be Exhibit 11 so you have  
8 it.  
9 A Okay, thank you.  
10 Q Are you familiar with that document?  
11 A Which one are we talking -- the first one?  
12 Q February 24th.  
13 A Yes, I am.  
14 Q Is this the standard letter that you get back  
15 from the Huntingdon County Planning Commission when a  
16 proposed subdivision is submitted to the commission?  
17 A Yes, it is.  
18 Q Now, typically for each submission do you get  
19 just one letter from them or do you -- would you later get  
20 another letter from them?  
21 A If it has to go back and there's a  
22 resubmission, we get another letter.  
23 Q Now, do you get this letter immediately upon  
24 submission?  
25 A No, it's after review.

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1 or not.  
2 Q Do you remember what you talked to him about  
3 in connection with Mr. Corneal's sewage module?  
4 A I'd probably do -- whatever happened at the  
5 meeting I would let Larry know and that's what I would do.  
6 Q So you informed Larry that the township  
7 supervisors were not going to sign Mr. Corneal's sewage  
8 module?  
9 A Yes, I probably did -- I know I did.  
10 Q Now, there were a couple different occasions  
11 when the township refused to sign the sewage module,  
12 correct?  
13 A Are we -- what period of time are we talking  
14 here?  
15 Q I would say the period of time before and  
16 after the moratorium was put in place.  
17 A But there's also sewage modules on the board  
18 now so there's different -- there's different issues here.  
19 Q Right. Really I'm just asking you weren't  
20 there a couple different times when the township has been  
21 presented with Mr. Corneal's sewage modules and they have  
22 not been signed, right? Have not been signed off on by the  
23 township, correct?  
24 A I think we need to be specific about that.  
25 MR. SHERR: Then go ahead and do that.

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1 BY MS. MONTGOMERY:  
 2 Q What is it that you need to know?  
 3 A **You need to give me a time frame.**  
 4 Q Well, it's a more general question. Did Mr.  
 5 Corneal submit sewage modules for the township's approval  
 6 once or more than once?  
 7 A **More than once.**  
 8 Q That's all I needed to know. How many times?  
 9 A **Twice.**  
 10 Q Did you discuss both of those submissions with  
 11 Larry Newton?  
 12 A **I also want to clarify submissions because the**  
 13 **first ones were never handed to the supervisors, okay. He**  
 14 **had them at a meeting, but he never left his sewage modules**  
 15 **with us. They were never submitted to us because he said**  
 16 **then he wasn't subdividing and he wanted a privy permit.**  
 17 Q Well, I think you testified a little  
 18 differently earlier, but the record will speak for itself.  
 19 Go ahead.  
 20 A **And the second ones we don't have yet. I**  
 21 **don't think we do. Barry might have them. I don't have**  
 22 **them.**  
 23 Q Did you discuss with Larry Newton the status  
 24 of Mr. Corneal's sewage modules on both -- with respect to  
 25 both submissions or attempted submissions?

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1 A **Probably.**  
 2 Q So you kept him informed about the township's  
 3 position with respect to the sewage modules?  
 4 A **I probably did.**  
 5 Q What about Mr. Corneal's proposed subdivision  
 6 plan? Did you keep Mr. Newton informed about that?  
 7 A **I probably did.**  
 8 Q Did he tell you what you were doing was okay  
 9 or wasn't okay?  
 10 A **I don't remember.**  
 11 Q Do you recall at any time a letter going to  
 12 Mr. Corneal rejecting his sewage module?  
 13 A **Sewage modules?**  
 14 Q Yes, or his proposed subdivision from the  
 15 township.  
 16 A **I don't recall if Larry wrote -- I don't**  
 17 **recall if Larry wrote him a letter or not or -- I know we**  
 18 **didn't write him a letter. I don't think we did.**  
 19 Q Do you recall Mr. Corneal asking for a  
 20 hearing --  
 21 A **No.**  
 22 Q -- in connection with his property?  
 23 A **No.**  
 24 Q Do you recall Mr. Corneal asking for a hearing  
 25 in connection with his building permit?

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1 A **No.**  
 2 Q Do you recall Mr. Corneal receiving a letter  
 3 from the township -- from anybody within the township,  
 4 officers, rejecting his application for anything?  
 5 A **He did get a letter from the township**  
 6 **rejecting his building permit application.**  
 7 Q So you do recall that?  
 8 A **Yes. Now, what time frame are we talking**  
 9 **about here because we're doing it again?**  
 10 Q Well, I'm talking about in the year 2000.  
 11 A **He did get a letter rejecting his building**  
 12 **permit.**  
 13 Q Did you have any discussions with anybody  
 14 within the township about his request for a building permit?  
 15 A **Me? I don't recall.**  
 16 Q You don't recall?  
 17 A **No, I don't.**  
 18 Q Do you recall receiving any letter from Mr.  
 19 Corneal appealing his denial of a building permit?  
 20 A **I don't know if he sent it to us or Larry, but**  
 21 **there was something.**  
 22 Q You do get the township's mail, right?  
 23 A **If it comes to me, I get it. If it goes to**  
 24 **Larry, he'll fax it to me.**  
 25 Q What's the address that you get the township

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1 mail at?  
 2 A **389-A.**  
 3 Q And what's your address?  
 4 A **390.**  
 5 Q Do you sometimes get mail at the other -- at  
 6 the 390 post office box for the township?  
 7 A **It's not a post office box.**  
 8 Q Well, a postal box, right?  
 9 A **On occasion.**  
 10 Q Now, I don't know if you answered this  
 11 question very -- and if I already asked it, I apologize, but  
 12 did you have occasion to discuss with the township  
 13 supervisors the denial of Mr. Corneal's building permit?  
 14 A **I'm sure we did talk about it.**  
 15 Q Do you know whether Mr. Corneal actually  
 16 submitted an application for a building permit?  
 17 A **What time frame?**  
 18 Q In the year 2000.  
 19 A **Yes, he did because he sent it to me.**  
 20 Q He sent you an application for a building  
 21 permit?  
 22 A **And checks, yeah.**  
 23 Q I'm sorry?  
 24 A **Yes, he did.**  
 25 Q Did you send us a copy of that application?



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1 A Was it on the list?  
 2 Q I'm sorry, the list of documents?  
 3 A Yes.  
 4 Q Well, I think it was.  
 5 A Well, then I must have sent it. If I didn't,  
 6 I didn't.  
 7 Q Well, then I'm just a little bit confused  
 8 because you had said earlier that all building application  
 9 permits -- applications for building permits go out to  
 10 the --  
 11 A They do go to David Van Dommelen.  
 12 Q So you don't keep them?  
 13 A No.  
 14 Q Why did this one come to you?  
 15 A Because Mr. Corneal sent it to me, either to  
 16 me or Larry.  
 17 Q Do they sometimes come to you?  
 18 A No.  
 19 Q Is that the only one you've ever gotten?  
 20 A Yes.  
 21 Q Well, did anybody ever inform you of whether  
 22 or not Mr. Corneal had requested a hearing on the denial of  
 23 his building permit?  
 24 A I do not ever remember hearing that before.  
 25 Q Typically if there's going to be a hearing on

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1 office, yeah.  
 2 Q So you had copies available in your office for  
 3 the public to review?  
 4 A Yes.  
 5 Q When were those copies made available to the  
 6 public?  
 7 A I think there's -- I think there's a  
 8 regulation about when it had to happen.  
 9 MR. SHERR: That's not what she asked you.  
 10 She asked you when was it available.  
 11 THE WITNESS: I don't know.  
 12 MR. SHERR: Then that's your answer.  
 13 THE WITNESS: Yeah, I don't know.  
 14 BY MS. MONTGOMERY:  
 15 Q But they were going to be made public through  
 16 you, correct?  
 17 A Yes.  
 18 Q So is there anybody else who would know when  
 19 you made them public or put them in your office?  
 20 A I don't know.  
 21 Q Were the copies that you kept in your office  
 22 there for say more than a week?  
 23 A I don't know.  
 24 Q Did you at some point keep copies of a  
 25 proposed subdivision ordinance that was other than the

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1 the denial of a building permit, where would that hearing be  
 2 held?  
 3 A I have no idea.  
 4 Q You've never been present at one?  
 5 A No.  
 6 Q Have you ever been present at any hearing that  
 7 the township supervisors have held when somebody wants to  
 8 appeal something that's been going on?  
 9 A No.  
 10 Q Were copies of the subdivision ordinance that  
 11 was passed on -- I think you said July 10th, 2000?  
 12 A It is the 10th.  
 13 Q It was the 10th that it was passed?  
 14 A Yes.  
 15 Q Were copies of that subdivision ordinance made  
 16 available to the public --  
 17 A Yes.  
 18 Q -- prior to it being -- how? Prior to it  
 19 being passed.  
 20 A I think it's in the paper. It was in the  
 21 library, in Larry's office, one in my office. It says that  
 22 in the ad somewhere, either in this one or the other ad he  
 23 had in. It was in the paper where they could be reviewed.  
 24 Q Did anybody come to your office to review it?  
 25 A No. Full text at the Daily News and at my

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1 subdivision ordinance that was eventually passed? If you  
 2 can hear that but --  
 3 A Tell me that again.  
 4 Q Okay. Did you at one point keep copies of a  
 5 proposed subdivision ordinance in your office that was  
 6 different than the one that was ultimately passed?  
 7 A No.  
 8 Q How many copies did you keep on file for the  
 9 public of the proposed subdivision ordinance?  
 10 A I think I had six.  
 11 Q Did you make the copies?  
 12 A No.  
 13 Q Who made the copies?  
 14 A I took them out to be done.  
 15 Q Where did you take them?  
 16 A Office Depot.  
 17 Q Office Depot. Did you submit them or did you  
 18 take them over there yourself and copy them?  
 19 A I left them do it.  
 20 Q You left them do it?  
 21 A Um-hum.  
 22 Q Did you keep an invoice for that?  
 23 A Sure.  
 24 Q So you have that invoice?  
 25 A Yes.



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<p style="text-align: right;">150</p> <p>1 Q Did you submit the ordinance to the county  2 planning commission?  3 A Yes.  4 Q When did you do that?  5 A Which time?  6 Q Well, why don't you tell me. Was there more  7 than one time?  8 A Yes.  9 Q When's the first time you submitted a proposed  10 ordinance to the county planning commission?  11 A I can't remember exactly. Sometime in the  12 fall.  13 Q In the fall of 2000 -- in the fall of 1999 I  14 mean?  15 A Um-hum.  16 MR. SHERR: You have to answer out loud.  17 THE WITNESS: Yes.  18 BY MS. MONTGOMERY:  19 Q Why was the subdivision ordinance submitted  20 twice to the county planning commission?  21 MR. SHERR: Object to the form of the  22 question. I don't know that she's testified that it was  23 twice. I think she testified that it was more than once.  24 BY MS. MONTGOMERY:  25 Q Was it more than once?</p>	<p style="text-align: right;">152</p> <p>1 Q By mail?  2 A Hard copy.  3 Q Hard copy document form?  4 A I don't know if I took it in or mailed it. I  5 doubt if I mailed it. I probably dropped it off when I went  6 by one day.  7 Q Is it close by?  8 A No.  9 Q How far is it?  10 A Fifteen miles.  11 Q So you don't think you mailed it, you think  12 you drove it over there?  13 A I probably did. I have clients there.  14 Q Did you put a cover letter out with it?  15 A No.  16 Q Do you have some sort of a -- any application  17 form or any transmittal form of any sort that you sent with  18 it?  19 A No.  20 Q Would anybody else have dropped it off or  21 mailed it?  22 A They might have.  23 Q Well, whose job was it within the township to  24 see to it that it got to the Huntingdon County Planning  25 Commission?</p>
<p style="text-align: right;">151</p> <p>1 A Yes, it was more than once.  2 Q Was it twice?  3 A It might have been more than that.  4 Q Can you remember if it was more than that?  5 A I know it was at least -- I know three times  6 at least. I can't tell you how many times.  7 Q Well, let me ask you this: Each time that it  8 was submitted was it a different ordinance in some way?  9 A It wasn't different. They had opinions and we  10 took them under consideration and we would make the changes.  11 Q Do you have records of that correspondence  12 going back and forth between you and the Huntingdon County  13 Planning Commission?  14 A I don't, no.  15 Q Who does?  16 A I would assume Richard does, but I'm not sure  17 of that.  18 Q If the ordinance --  19 MR. SHERR: Just for the record, Richard was  20 Richard Stahl?  21 THE WITNESS: Yes, I'm sorry.  22 BY MS. MONTGOMERY:  23 Q If the ordinance was submitted to the  24 Huntingdon County Planning Commission, how was it submitted?  25 A In document form.</p>	<p style="text-align: right;">153</p> <p>1 A It probably was mine.  2 Q Why do you say probably?  3 A Well, they -- whoever -- it's not close so  4 whoever's running goes.  5 Q Now, the final proposed subdivision ordinance  6 that was submitted to the Huntingdon County Planning  7 Commission, was that the subdivision ordinance that  8 eventually was passed --  9 A Yes.  10 Q -- by the township supervisors?  11 A Yes.  12 Q So it went up in one final last form,  13 Huntingdon County Planning Commission looked at it, you got  14 it back and then the township supervisors approved it?  15 A Yes.  16 Q Now, during this period of time that it was  17 being passed back and forth with the Huntingdon County  18 Planning Commission, was the ordinance also being presented  19 to the public and mentioned at the township meetings?  20 A I don't know how -- whether it was or not.  21 Q Do you know when you submitted the final  22 subdivision ordinance to the Huntingdon County Planning  23 Commission?  24 A After July the 10th.  25 Q After July the 10th, after you passed it?</p>

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1 A **Right.**  
2 Q Then you submitted it to them for what?  
3 A **They keep a copy for their review.**  
4 Q Well, prior to the time that you -- that the  
5 supervisors approved the final subdivision ordinance, do you  
6 know when you submitted it to the Huntingdon County Planning  
7 Commission?  
8 A **June the 3rd, Saturday morning, around 10**  
9 **o'clock I got the final revisions from Richard. I went to**  
10 **his house to do it on a Saturday morning.**  
11 Q You mean you took it over to his house?  
12 A **No.**  
13 Q Well, my question was when did you submit it  
14 to him.  
15 A **I don't know when I submitted it to him.**  
16 **That's the last time that we talked about it.**  
17 Q Was June the 10th?  
18 A **June the 3rd.**  
19 Q Or June the 3rd. How do you recall that date  
20 so well?  
21 A **I have it written down because it was a**  
22 **Saturday and I wasn't happy about having to do it on a**  
23 **Saturday. I had something else to do, but Richard was going**  
24 **on vacation so I went.**  
25 Q Did the Huntingdon County Planning Commission

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1 submit comments to you in writing on the proposed  
2 subdivision ordinance?  
3 A **He wrote in the column on the side and he**  
4 **inserted things that he felt we should consider.**  
5 Q Did you submit those to us?  
6 A **I don't have them.**  
7 Q You didn't keep any copies of them?  
8 A **No.**  
9 Q Did you just throw them away?  
10 A **Yes.**  
11 Q Do you have all the successive drafts of the  
12 proposed ordinance?  
13 A **No, I do not.**  
14 Q You just threw them away as well?  
15 A **I had no reason to keep them.**  
16 MR. SHERR: Just answer her questions.  
17 THE WITNESS: No, I don't have them.  
18 BY MS. MONTGOMERY:  
19 Q Miss Wirth, do you recall whether you actually  
20 suggested a moratorium to the township supervisors?  
21 A **I did not.**  
22 Q Did you ever suggest it to anybody?  
23 A **No.**  
24 Q Did you suggest it to Larry Newton?  
25 A **No.**

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1 Q Do you recall discussions about why the  
2 moratorium was being put in place with the supervisors?  
3 A **No.**  
4 Q You don't recall any of those discussions?  
5 A **No.**  
6 Q Do you recall whether any discussions about  
7 the purpose of the moratorium took place?  
8 A **No.**  
9 Q Now, we're going to go back for just a second  
10 to this document that we marked as --  
11 MS. THORP: It's 9.  
12 BY MS. MONTGOMERY:  
13 Q Wirth Exhibit 9 and I just want to make sure  
14 that I understand that there were no other subdivision --  
15 correct me if I'm wrong. There were no other subdivision  
16 applications received by the township other than those on  
17 this list?  
18 A **To the best of my knowledge.**  
19 Q Did you ever have a public hearing on the  
20 moratorium?  
21 A **No.**  
22 Q Did you actually do a formal submission of the  
23 moratorium to the county planning commission?  
24 A **No.**  
25 Q You just told them about it?

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1 A **To the best of my knowledge.**  
2 Q Do you know how you told them about it?  
3 A **No.**  
4 Q So if there was a formal submission you would  
5 have been the one that would have been involved in preparing  
6 it, correct?  
7 A **Yes, probably.**  
8 Q Let me just ask you this, and if I asked you  
9 already I apologize, did the supervisors actually take a  
10 vote with respect to the moratorium?  
11 A **I did testify to that.**  
12 Q And what was your testimony?  
13 A **You asked me if the supervisors voted and I**  
14 **said -- I believe I said I don't recall whether -- normally**  
15 **they do, they say -- I think that's what I said.**  
16 Q But you don't recall if they did?  
17 A **They normally do and I think that's what I**  
18 **said.**  
19 Q Let's see, did you ever submit a copy of the  
20 driveway -- the proposed driveway ordinance to the planning  
21 commission?  
22 A **Yes, I did.**  
23 Q Did you also do the privy --  
24 A **Yes, I did.**  
25 Q When did you do that?

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1 A I don't recall.  
 2 Q Did you submit it after it was approved or  
 3 before, by the supervisors?  
 4 A I don't recall.  
 5 Q Did you discuss the driveway ordinance with  
 6 Larry Newton?  
 7 A Probably.  
 8 Q Why do you say probably?  
 9 A Because I think we submitted it to him for him  
 10 -- I'm trying to remember if we typed it or he typed it. I  
 11 don't remember.  
 12 Q What about the privy ordinance, did you submit  
 13 that to Larry Newton?  
 14 A The same thing, I don't know if he did it or I  
 15 did it.  
 16 Q Do you recall ever reviewing any subdivision  
 17 plan or drawing at all in connection with the Corneal  
 18 property?  
 19 A What time frame?  
 20 Q In the year 2000.  
 21 A Yes.  
 22 Q In what context was that?  
 23 A I think he was -- I think it was at the  
 24 meeting. We talked about that earlier today.  
 25 Q So at the meeting you recall actually looking

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1 not.  
 2 Q You mentioned that you thought you viewed a  
 3 subdivision plan in 2000, right?  
 4 A I thought what you asked me was did we look at  
 5 a plot plan.  
 6 Q Well, okay. What I said was a subdivision  
 7 plan or any other drawing.  
 8 A A drawing is what --  
 9 Q Right, that's what I said.  
 10 A We did look at a drawing.  
 11 Q Now, I think you said you thought you did that  
 12 at a supervisor's meeting?  
 13 A I'm not sure.  
 14 Q Where else would it have been?  
 15 A I'm not -- it came to us through Larry so I  
 16 don't know where we looked at it.  
 17 Q So Larry turned over to you at some point a  
 18 copy of a drawing for the proposed subdivision for the  
 19 Corneal's property?  
 20 A To the township he turned it over.  
 21 Q He turned it over to the township and you  
 22 reviewed it. Who did you review it with?  
 23 A I didn't review it, the supervisors reviewed  
 24 it.  
 25 Q Were you present when they reviewed it?

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1 at a subdivision plan?  
 2 A I'm not sure if we looked at it there. I'm  
 3 not sure. I don't know.  
 4 Q What about the year 1999?  
 5 A In '99, no.  
 6 Q What about this year?  
 7 A Yes.  
 8 Q In what context?  
 9 A With his lawyer Terry Williams.  
 10 Q You were present at that meeting?  
 11 A Yes.  
 12 Q And who else was present?  
 13 A All the supervisors, Barry Parks, Larry  
 14 Newton, Terry Williams and I think David Van Dommelen.  
 15 Q Why were you present?  
 16 A Why was I present?  
 17 Q Yes.  
 18 A Because I have to sign.  
 19 Q Because you have to sign the --  
 20 A I have to sign the plans.  
 21 Q You have to be one of the two people who signs  
 22 the plans?  
 23 A Yes, I have to sign them and seal them.  
 24 Q Did you keep minutes of that meeting?  
 25 A No, I -- it was in the courthouse. No, I did

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1 A Yes.  
 2 Q And so we're going to go back around again.  
 3 So in what context was that, just an informal meeting or  
 4 something?  
 5 A I don't remember. I don't remember when we  
 6 got it or when we reviewed it.  
 7 Q But you do remember that you got it from Larry  
 8 Newton?  
 9 A I said earlier today that I don't know whether  
 10 it came from Larry Newton or Simpson.  
 11 Q Did you discuss the subdivision -- the drawing  
 12 with Larry Newton?  
 13 A Probably.  
 14 Q Did the supervisors discuss the drawing with  
 15 Larry Newton?  
 16 A Probably.  
 17 Q Did you discuss whether or not to approve the  
 18 subdivision with Larry Newton?  
 19 A I don't know.  
 20 Q Did the supervisors discuss whether or not to  
 21 approve the subdivision with Larry Newton?  
 22 A I don't know.  
 23 Q Now, you testified earlier that I believe it  
 24 was at the February meeting that Mr. Corneal first came in  
 25 and asked the supervisors -- the February 2000 meeting he

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1 came in and asked the supervisors to sign his subdivision  
2 plan, correct?  
3 A I think that's the date, yeah. Yes.  
4 Q And I believe you testified that they refused  
5 to do so because they said there was a moratorium in place  
6 as of January?  
7 A Right.  
8 Q Did they issue a written rejection of his  
9 subdivision plan?  
10 A No, I don't think so.  
11 Q Do you recall Mr. Corneal asking for a copy of  
12 a moratorium ordinance or resolution?  
13 A He might have. I don't -- I don't know. He  
14 might have.  
15 Q Did you discuss with Larry Newton Mr.  
16 Corneal's interest in seeing a copy of a moratorium  
17 ordinance or resolution?  
18 A I don't recall that.  
19 Q Do you recall talking with Larry Newton about  
20 whether you had to put that moratorium into a written form?  
21 A I don't recall that either.  
22 Q Do you recall whether the supervisors  
23 discussed that with him?  
24 A You'll have to ask them.  
25 Q Was there an ordinance in place at any time

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1 '97. I'm not -- I don't know the date, but we do have an  
2 ag. security ordinance.  
3 Q But there wasn't any other ordinance that said  
4 anything about subdividing at that time prior to this  
5 subdivision ordinance?  
6 A Ordinances you're talking about?  
7 Q Yes.  
8 A No.  
9 Q What about any other document -- or I should  
10 say any other sort of rule, regulation, resolution, anything  
11 that would be a formal action of the supervisors?  
12 A Act 537.  
13 Q What's Act 537?  
14 A Sewage Enforcement Act.  
15 Q And you're saying what about that, that's the  
16 -- something that was in place of how you do subdivisions  
17 in the township?  
18 A It states that you have to have an equivalent  
19 subdivision if there's more than two buildings on a  
20 property, two dwellings, and we testified to that this  
21 morning.  
22 Q So you're saying that was what you followed as  
23 a subdivision ordinance, or something, or what are you  
24 saying?  
25 A Yes, we did.

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1 prior to the subdivision ordinance that you put in place on  
2 July 10th, 2000?  
3 A What kind of an ordinance?  
4 Q Subdivision ordinance.  
5 A No.  
6 Q Was there any other ordinance in place?  
7 A Yes.  
8 Q What ordinance was that?  
9 A Building permit ordinance.  
10 Q The building permit ordinance, okay. When was  
11 that passed?  
12 A Long before my time. The date's in the back.  
13 I don't know.  
14 Q Other than the three ordinances that you  
15 testified have been passed since you've been in place as the  
16 township secretary and treasurer and other than this  
17 building ordinance, are there other ordinances in the  
18 township?  
19 A No.  
20 Q There's just those four that exist?  
21 A I'm not sure if this -- this -- there is an  
22 ordinance, I'm sorry. It's ag. security. We passed an ag.  
23 security ordinance. I'm sorry, I forgot that.  
24 Q When did you do that?  
25 A It might be '95 or '96. Maybe not. Maybe

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1 Q Was it in writing somewhere that all  
2 subdivision plans had to be submitted to the Huntingdon  
3 County Planning Commission?  
4 A Not to the best of my knowledge.  
5 Q So it was just something that the supervisors  
6 and you thought you ought to do, thought you ought to impose  
7 on the public?  
8 A It was done long before my time.  
9 Q But it's not in writing anywhere?  
10 A I don't know.  
11 Q Do you recall Mr. Corneal submitting a revised  
12 subdivision plan to the township?  
13 A What time frame?  
14 Q The year 2001.  
15 A Yes.  
16 Q Are you familiar with that document?  
17 A I've seen it.  
18 Q In what context did you see it?  
19 A In the courthouse.  
20 Q In the courthouse at a meeting?  
21 A At a hearing.  
22 Q At a hearing. What hearing was that?  
23 A The township has -- went before the judge  
24 asking for Mr. Corneal to comply with regulations in the  
25 township.

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<p style="text-align: right;">166</p> <p>1 Q What regulations?</p> <p>2 A <b>Building permit regulations and subdivision</b></p> <p>3 <b>ordinance and sewage.</b></p> <p>4 Q So you saw it there? Did you testify at</p> <p>5 that --</p> <p>6 A <b>No.</b></p> <p>7 Q You just saw it in connection with that</p> <p>8 hearing?</p> <p>9 A <b>Yes.</b></p> <p>10 Q Did you see it before the hearing as well?</p> <p>11 A <b>No.</b></p> <p>12 Q Did you see it after the hearing?</p> <p>13 A <b>It's in my office.</b></p> <p>14 Q It's in your office, okay.</p> <p>15 A <b>You're talking about a plot plan?</b></p> <p>16 Q Yes.</p> <p>17 A <b>It's in my office.</b></p> <p>18 Q When did you get it in your office?</p> <p>19 A <b>I got it at the hearing that day. No, wait a</b></p> <p>20 <b>minute. I got a copy at the hearing that day. I got a copy</b></p> <p>21 <b>that day.</b></p> <p>22 Q You got a copy of it when?</p> <p>23 A <b>At the hearing.</b></p> <p>24 Q And that's the first time?</p> <p>25 A <b>To the best of my knowledge.</b></p>	<p style="text-align: right;">168</p> <p>1 MR. SHERR: She is not being evasive. Can you</p> <p>2 read back the question and the answer, please.</p> <p>3 MS. MONTGOMERY: If we're going to read back</p> <p>4 the question and the answer, you're going to have to go a</p> <p>5 long ways back. Let's continue on.</p> <p>6 MR. SHERR: Could you read back --</p> <p>7 MS. MONTGOMERY: I'm going to rephrase the</p> <p>8 question. It's my deposition, knock it off.</p> <p>9 MR. SHERR: Don't tell me to knock off</p> <p>10 anything.</p> <p>11 MS. MONTGOMERY: Here's the question --</p> <p>12 MR. SHERR: And don't talk to me in that tone,</p> <p>13 young lady.</p> <p>14 MS. MONTGOMERY: This is the question and</p> <p>15 we're not reading the question back.</p> <p>16 MR. SHERR: If you want her --</p> <p>17 MS. MONTGOMERY: I have withdrawn the</p> <p>18 question. I've withdrawn the question.</p> <p>19 MR. SHERR: And all I was saying is if you</p> <p>20 want her to clarify it --</p> <p>21 MS. MONTGOMERY: Moving right along.</p> <p>22 MR. SHERR: -- then we'll reask the question</p> <p>23 and get the answer again.</p> <p>24 MS. MONTGOMERY: We're going to reask the</p> <p>25 question.</p>
<p style="text-align: right;">167</p> <p>1 Q Do you know whether the board ever -- the</p> <p>2 board of supervisors ever passed a resolution regarding the</p> <p>3 lawsuit that they initiated against Mr. Corneal?</p> <p>4 A <b>No.</b></p> <p>5 Q You don't know or did they?</p> <p>6 A <b>They didn't.</b></p> <p>7 Q They did not. Did they just decide it among</p> <p>8 themselves informally?</p> <p>9 A <b>No.</b></p> <p>10 Q How was it decided?</p> <p>11 A <b>With our township attorney.</b></p> <p>12 Q With Mr. Newton?</p> <p>13 A <b>Yes.</b></p> <p>14 Q So Mr. Newton advised the board of supervisors</p> <p>15 that they should initiate a lawsuit against Mr. Corneal?</p> <p>16 A <b>No.</b></p> <p>17 Q I'm not sure I understand your answer. Do you</p> <p>18 want to clarify what you're trying to tell me?</p> <p>19 MR. SHERR: Don't feel that it's necessary.</p> <p>20 You've answered her question. You've answered it directly.</p> <p>21 MS. MONTGOMERY: She hasn't answered it</p> <p>22 directly.</p> <p>23 MR. SHERR: She absolutely has.</p> <p>24 MS. MONTGOMERY: It's not permissible to be</p> <p>25 evasive.</p>	<p style="text-align: right;">169</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q Did the board of supervisors pass a resolution</p> <p>3 regarding the lawsuit that they filed against Mr. Corneal?</p> <p>4 A <b>No.</b></p> <p>5 Q Did they just decide among themselves that</p> <p>6 they were going to file the lawsuit?</p> <p>7 MR. SHERR: Objection, asked and answered.</p> <p>8 MS. MONTGOMERY: That's good.</p> <p>9 MR. SHERR: That's not the question. The</p> <p>10 question was -- you said did Mr. Newton advise them to file</p> <p>11 a lawsuit and she said no and then you asked her to clarify</p> <p>12 that.</p> <p>13 MS. MONTGOMERY: I know what I said and I am</p> <p>14 going to move on.</p> <p>15 MR. SHERR: Well, then why are you going back</p> <p>16 to all these other questions? Objection, asked and</p> <p>17 answered. You can answer.</p> <p>18 BY MS. MONTGOMERY:</p> <p>19 Q Did they decide among themselves to file a</p> <p>20 lawsuit?</p> <p>21 MR. SHERR: Objection, asked and answered.</p> <p>22 You can answer it.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MS. MONTGOMERY:</p> <p>25 Q So did their attorney -- no, that wasn't the</p>



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1 question. Who else was involved in the decision to file a  
2 lawsuit?  
3 A I don't really know. I don't know how to  
4 answer you.  
5 Q Well, if they didn't decide among themselves  
6 to file a lawsuit against Mr. Corneal, how did they decide  
7 it?  
8 MR. SHERR: Objection to the form of the  
9 question. I think you're misstating her testimony. You can  
10 answer the question if you can.  
11 THE WITNESS: They sought counsel about it.  
12 BY MS. MONTGOMERY:  
13 Q Sought counsel from who?  
14 A Larry Newton.  
15 Q Then my question was did Mr. Newton advise  
16 them that they could file a lawsuit against Mr. Corneal?  
17 A You did it in the opposite the --  
18 MR. SHERR: Just answer her question.  
19 THE WITNESS: Yes.  
20 BY MS. MONTGOMERY:  
21 Q He did. That's all I wanted to know. Do you  
22 recall who actually initiated the discussions about filing a  
23 lawsuit against Mr. Corneal?  
24 A I have no idea.  
25 Q Did you initiate them?

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1 A I probably have.  
2 Q Are you saying probably because you don't  
3 recall?  
4 A I have.  
5 Q You have discussed it with him, okay. On what  
6 occasions?  
7 A I don't know.  
8 Q When you say you don't know, do you mean you  
9 don't know exactly when they were or what?  
10 A I don't know when they were.  
11 Q Well, if you don't know when they were, then  
12 do you just recall the setting for the discussion with Mr.  
13 Newton that you had?  
14 A Probably in his office.  
15 Q Did you go to his office by yourself?  
16 A For what reason?  
17 Q To discuss the lawsuit with Mr. Corneal.  
18 A No.  
19 Q Who did you go with?  
20 A I believe we were all there.  
21 Q On more than one occasion?  
22 A I don't think so.  
23 Q You recall then being there one time?  
24 A Yes.  
25 Q Did you discuss it over the telephone with Mr.

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1 A No.  
2 Q Were you involved in discussions with the  
3 supervisors about doing it?  
4 A I might have been. I don't know.  
5 Q Were you present at meetings with the  
6 supervisors when it was being discussed?  
7 A Probably.  
8 Q Why do you say probably?  
9 A Because I'm in a lot of things.  
10 Q Were you involved in discussions with the  
11 supervisors and Mr. Newton about filing a lawsuit against  
12 Mr. Corneal?  
13 A Probably.  
14 Q And why do you say probably?  
15 A Because I cannot remember if I was there when  
16 they did it.  
17 Q How do you know that they discussed it with  
18 Mr. Newton then, with Attorney Newton?  
19 A Because he's our lawyer.  
20 Q Did they tell you that they sought counsel --  
21 A Sure.  
22 Q -- from Mr. Newton?  
23 A Yes.  
24 Q Did you discuss the lawsuit directly with Mr.  
25 Newton?

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1 Newton?  
2 A Yes.  
3 Q Prior to filing the lawsuit?  
4 A I don't remember if it was prior or after.  
5 Q Did you discuss it on the telephone alone with  
6 Mr. Newton or with the other supervisors?  
7 A Probably both.  
8 Q Was anybody else there besides the supervisors  
9 when you, for example, went to the office of Larry Newton to  
10 discuss the lawsuit against Mr. Corneal?  
11 A No.  
12 Q Just the supervisors and you?  
13 A Yes, that I can recall.  
14 Q Was Barry Parks at any of the meetings that  
15 you can recall at which the lawsuit against Mr. Corneal was  
16 going to be filed?  
17 I don't think I said that very well. Let me  
18 rephrase that. Was Barry Parks present at any of the  
19 meetings at which the lawsuit that was to be filed against  
20 Mr. Corneal was discussed?  
21 A I testified to that a while ago.  
22 Q I don't recall what you said, I apologize.  
23 What did you say?  
24 A Everybody that was in the lawsuit was in the  
25 courthouse.



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1 Q At the hearing you mean?  
 2 A **Yeah.**  
 3 Q I was talking about meetings. You're talking  
 4 about the lawsuit up in the county, correct?  
 5 A **Yes.**  
 6 Q I actually was referring to meetings. When  
 7 you say that everybody involved in the lawsuit was there at  
 8 the courthouse, at the county courthouse in the county  
 9 lawsuit, you mean everybody in this lawsuit? Is that what  
 10 you mean?  
 11 A **No.**  
 12 Q You mean everybody in that lawsuit?  
 13 A **Yes.**  
 14 Q Are you a party to that lawsuit?  
 15 A **No.**  
 16 Q Is Barry Parks a party to that lawsuit?  
 17 A **Yes.**  
 18 Q His name is on the pleadings?  
 19 A **I don't know.**  
 20 Q Is Van Dommelen a party to that lawsuit?  
 21 A **I don't know.**  
 22 Q I'm just trying to clarify who it is you're  
 23 talking about, that's all, because if you say everybody in  
 24 that lawsuit, then we could look at those pleadings and say  
 25 -- then we know who was there. If you're talking about

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1 Q And who was that?  
 2 A **Different people got it from me.**  
 3 Q Different people got it from you?  
 4 A **Bought it from me actually.**  
 5 Q Bought it from you. The proposed or the  
 6 final?  
 7 A **I think it was the proposed.**  
 8 Q So you did send copies --  
 9 A **No, it was the final. The final, I'm sorry.**  
 10 **It's the final.**  
 11 Q After it was --  
 12 A **After it was passed.**  
 13 Q But prior to the time it was passed you never  
 14 sent a copy of it to anybody?  
 15 A **Not that I can recall, other than what I**  
 16 **testified to.**  
 17 Q Did you get any requests from anybody?  
 18 A **No, except Mr. Corneal.**  
 19 Q Did you send him a copy of the proposed --  
 20 A **No.**  
 21 Q Why not?  
 22 A **I didn't have one to give him at the time.**  
 23 Q But he did ask you for one?  
 24 A **Not me.**  
 25 Q Who did he ask?

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1 everybody in this lawsuit was involved in that lawsuit in  
 2 the courthouse, then we know who was there.  
 3 A **I don't know.**  
 4 Q Why did you attend that hearing for the  
 5 lawsuit that's up in Huntingdon County?  
 6 A **Because they take me most every place they go.**  
 7 Q Why was Mr. Parks there?  
 8 A **I don't know.**  
 9 Q Do you recall whether you sent copies of the  
 10 draft township ordinance to any members of the public at any  
 11 time during the time that it was under consideration?  
 12 A **What do you mean public?**  
 13 Q Well, a member of the public, resident. Did  
 14 you send copies of the township ordinance to anybody, the  
 15 proposed township ordinance to anybody?  
 16 MR. SHERR: Other than what's been testified  
 17 to already?  
 18 THE WITNESS: No.  
 19 BY MS. MONTGOMERY:  
 20 Q Other than the county commissioners -- I mean  
 21 the county planning commission.  
 22 A **No.**  
 23 Q Did anybody ever request a copy of the  
 24 proposed ordinance from you?  
 25 A **Yes.**

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1 A **Larry, I believe.**  
 2 Q He asked Larry Newton for a copy of the  
 3 proposed subdivision ordinance. Did Larry then pass that  
 4 request on to you?  
 5 A **I believe I read it in a letter, is how I know**  
 6 **that.**  
 7 Q Did you know about the request at the time  
 8 that it was submitted?  
 9 A **No.**  
 10 Q You found out about it later?  
 11 A **Yes.**  
 12 Q But then you just said you didn't have one to  
 13 give him at the time and that's why you didn't give him  
 14 one.  
 15 A **No. When Larry had that request, they weren't**  
 16 **-- the date on there -- I think it's the date that's in**  
 17 **that letter. I don't know. It's in one of these**  
 18 **correspondence. I saw it the other day when I was there.**  
 19 **We didn't have an ordinance yet.**  
 20 Q Well, we were talking about the proposed  
 21 subdivision ordinance and the request for that.  
 22 A **We didn't have a proposed yet either.**  
 23 Q Just so I'm clear about your testimony --  
 24 MS. MONTGOMERY: Let the record reflect that  
 25 Mr. Sherr just said something to his client. I'm not sure

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<p style="text-align: right;">178</p> <p>1 what it was.</p> <p>2 MR. SHERR: I'll state it, you're doing all</p> <p>3 right, just listen to her questions. Are you satisfied?</p> <p>4 THE WITNESS: That's what he said to me.</p> <p>5 BY MS. MONTGOMERY:</p> <p>6 Q Did the Corneals ever ask you for a copy of</p> <p>7 the ordinance at one of the township meetings?</p> <p>8 A <b>Not that I recall.</b></p> <p>9 Q Do you recall telling the Corneals at any of</p> <p>10 the meetings that the board only had originals and no</p> <p>11 copies?</p> <p>12 A <b>I might have done that.</b></p> <p>13 Q Is that the proposed ordinance or the final</p> <p>14 ordinance?</p> <p>15 A <b>Proposed.</b></p> <p>16 Q I think, if I understand your testimony, that</p> <p>17 you said that when Mr. Corneal asked Larry Newton for a copy</p> <p>18 of the proposed ordinance you didn't have a proposed</p> <p>19 ordinance at that point?</p> <p>20 A <b>We didn't have copies of a proposed ordinance.</b></p> <p>21 Q Do you recall when you gave your first</p> <p>22 proposed ordinance to the Huntingdon County Planning</p> <p>23 Commission?</p> <p>24 A <b>You asked me that earlier and I don't know.</b></p> <p>25 Q Do you know if it was before or after Mr.</p>	<p style="text-align: right;">180</p> <p>1 Q Did they ever have a subdivision ordinance to</p> <p>2 your knowledge?</p> <p>3 A <b>A county subdivision ordinance?</b></p> <p>4 Q A county subdivision ordinance.</p> <p>5 A <b>No.</b></p> <p>6 Q I notice that the Huntingdon County Planning</p> <p>7 Commission letters of February 24 and April 20th, which are</p> <p>8 Wirth 11 and 10 respectfully, are addressed to you.</p> <p>9 A <b>Yes.</b></p> <p>10 Q Did you read these letters?</p> <p>11 A <b>Yes.</b></p> <p>12 Q Look at Paragraph 2 on the April 20th letter,</p> <p>13 Paragraph 2 meaning their numbered paragraph 2. Miss Wirth,</p> <p>14 what do you understand that paragraph to mean?</p> <p>15 A <b>That the county was questioning the soils at</b></p> <p>16 <b>the site where he was proposing a house.</b></p> <p>17 Q Do you know what hydric soils are?</p> <p>18 A <b>I know it has something to do with a wetland,</b></p> <p>19 <b>that's all I know.</b></p> <p>20 Q And then continuing on with Paragraph 2 do you</p> <p>21 see where it says that the Blazosky Associates had indicated</p> <p>22 that no wetlands were present at the location of the lots in</p> <p>23 the Corneal subdivision proposal?</p> <p>24 A <b>Yes.</b></p> <p>25 Q What occurred after the Blazosky Associates</p>
<p style="text-align: right;">179</p> <p>1 Corneal asked Mr. --</p> <p>2 A <b>It had to be before.</b></p> <p>3 Q Did you talk to Larry Newton about whether or</p> <p>4 not you ought to provide Mr. Corneal with a copy of the</p> <p>5 proposed subdivision ordinance?</p> <p>6 A <b>I don't recall.</b></p> <p>7 Q You don't recall. Did you ask the supervisors</p> <p>8 about whether or not you ought to provide a copy?</p> <p>9 A <b>I don't recall.</b></p> <p>10 Q Do you have any understanding at all of what</p> <p>11 factors the county planning commission relies upon in</p> <p>12 reviewing a proposed subdivision ordinance?</p> <p>13 A <b>No.</b></p> <p>14 Q Do you know what they compare it to?</p> <p>15 A <b>No.</b></p> <p>16 Q Does the county have a subdivision ordinance?</p> <p>17 A <b>No.</b></p> <p>18 Q Did you get comments from the county on all</p> <p>19 three ordinances that were passed at the July 10, 2000</p> <p>20 meeting?</p> <p>21 A <b>I don't recall if we got it on all three or</b></p> <p>22 <b>not.</b></p> <p>23 Q You just testified that Huntingdon County</p> <p>24 doesn't have a subdivision ordinance, correct?</p> <p>25 A <b>That's right.</b></p>	<p style="text-align: right;">181</p> <p>1 map and study data identifying the investigation area was</p> <p>2 submitted?</p> <p>3 A <b>I have no idea.</b></p> <p>4 Q What occurred in response to their opinion and</p> <p>5 their report that there were no wetlands present at the</p> <p>6 location of the lots of the proposal?</p> <p>7 A <b>I don't -- I have no idea.</b></p> <p>8 Q What prompted the Huntingdon County Planning</p> <p>9 Commission to have to review whether or not there were</p> <p>10 wetlands, do you know?</p> <p>11 A <b>I have no idea.</b></p> <p>12 Q Do you know whether anybody among the township</p> <p>13 supervisors questioned whether the Blazosky Associates</p> <p>14 proposal was correct?</p> <p>15 A <b>I have no idea.</b></p> <p>16 Q Did you question whether the Blazosky -- are</p> <p>17 you familiar with the Blazosky Associates report?</p> <p>18 A <b>I know it exists from this letter.</b></p> <p>19 Q Did you ever read it?</p> <p>20 A <b>No.</b></p> <p>21 Q Did you know what the conclusions were?</p> <p>22 A <b>No.</b></p> <p>23 Q Do you know whether the supervisors questioned</p> <p>24 whether Barry Parks had correctly identified wetlands? Do</p> <p>25 you know whether any supervisor questioned that?</p>

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1 A You'll have to ask them.  
 2 Q Did you have any conversations with anybody  
 3 from the Huntingdon County Planning Commission about whether  
 4 or not there were wetlands?  
 5 A No.  
 6 Q Let me ask you about Paragraph 3 of this April  
 7 20 letter. Can you just look at that, the numbered  
 8 paragraph 3. What do you understand that paragraph to mean,  
 9 Miss Wirth?  
 10 A What it says.  
 11 Q The proposal that they're speaking about in  
 12 that Paragraph 3, that's the subdivision proposal, correct,  
 13 that the Corneals submitted?  
 14 A I would assume.  
 15 Q Now, why are these letters addressed to you?  
 16 A Because they all come to the secretary because  
 17 that's where the mail comes to.  
 18 Q Then do you pass them on to each of the  
 19 township supervisors?  
 20 A I attach them to the subdivision plot plan.  
 21 Q You attach them to the subdivision plot plan?  
 22 A Right, and they review it.  
 23 Q And then the supervisors review it?  
 24 A Right.  
 25 Q When do they review it, at a township meeting

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1 mark now as Wirth Exhibit 12.  
 2 (Letter dated 11/10/00 produced and marked as  
 3 Wirth Exhibit No. 12.)  
 4 BY MS. MONTGOMERY:  
 5 Q Have you seen this letter before?  
 6 A Yes, I probably have.  
 7 Q I see that this letter is -- this Box 390 up  
 8 there, that's your home address, right?  
 9 A Yes.  
 10 Q The letter is addressed to gentlemen, which  
 11 means the township supervisors, correct?  
 12 A Yes.  
 13 Q So when you get a letter like this, what do  
 14 you do with it?  
 15 A Well, this one I probably gave to Larry  
 16 Newton.  
 17 Q And then you would assume that Larry Newton  
 18 would pass it on to the township supervisors?  
 19 A I might have given them copies. I don't  
 20 remember.  
 21 Q So I think you testified earlier that you  
 22 didn't know anything about a hearing request in connection  
 23 with his building permit?  
 24 A I keep asking you about time frames. You must  
 25 talk to me about time frames because there's two different

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1 or informally or what?  
 2 A It gets presented at the township meeting and  
 3 then if we don't have the letter back from the county or  
 4 there's something else that needs to happen they will sign  
 5 them at a later date.  
 6 Q When you say you attach them, you mean you put  
 7 them in the file with it, stick them inside of the -- inside  
 8 a rubber band?  
 9 A Somewhere -- it's attached.  
 10 Q So it becomes part of the application,  
 11 correct?  
 12 A It should.  
 13 Q In response to this April 20, 2000 letter from  
 14 the planning commission, what action did the board of  
 15 supervisors take with respect to the Corneal's subdivision  
 16 proposal?  
 17 A You'll have to ask them.  
 18 Q Was it discussed any further at an additional  
 19 meeting?  
 20 A About this proposal?  
 21 Q About this letter.  
 22 A This letter?  
 23 Q What the letter recommends.  
 24 A Not that I can recall.  
 25 Q I'm going to show you a letter I'm going to

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1 things going on here.  
 2 Q Well, this is November 10, 2000.  
 3 A Okay, but there's the original building --  
 4 should I go into this?  
 5 MR. SHERR: Is it an answer to her question?  
 6 THE WITNESS: Yes. The original building --  
 7 when he applied for a building permit the first time, that  
 8 was not this time. This is whenever now we're working with  
 9 him to get his building permits and his sewage permits.  
 10 There's two different issues here and you have to clarify  
 11 not just year, you're going to have to clarify issues.  
 12 BY MS. MONTGOMERY:  
 13 Q Okay, so when I asked you do you know anything  
 14 about an appeal of Mr. Corneal's application for a building  
 15 -- denial of an application for a building permit, I have  
 16 to tell you the exact date?  
 17 A You're going to have to tell me which issue  
 18 we're talking about because there's two different things  
 19 going on.  
 20 Q Well, now that you look at it, do you recall  
 21 a hearing --  
 22 A Yeah, I know about this.  
 23 Q Was there a hearing ever scheduled?  
 24 A We have talked to Terry Williams numerous  
 25 times. We've had hearings with Terry and phone calls and --

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1 they have.  
2 Q I think I asked you this before, but if you're  
3 going to have a hearing on this appeal, the denial of his  
4 building permit, where would that be held?  
5 A All the meetings we had with Terry Williams  
6 were in the courthouse.  
7 Q That wasn't my question. I'm talking about a  
8 hearing on an appeal of the denial of a building permit.  
9 A We never had a hearing with Mr. Corneal. We  
10 had hearings -- meetings. We had meetings with Mr. Williams  
11 in the courthouse. That's all we ever did.  
12 Q Let me ask you this: If Mr. Van Dommelen  
13 sends out a denial of a building permit, does he send a copy  
14 to you?  
15 A He would.  
16 Q He would?  
17 A Probably.  
18 Q And would you keep it in your files?  
19 A I've only ever had one.  
20 Q One denial of a building permit?  
21 A Yes.  
22 Q And that was Mr. Corneal's?  
23 A Right.  
24 Q No other building permit has ever been denied  
25 in Jackson Township in your time?

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1 A I can't say that.  
2 Q In your time?  
3 A I can't say that.  
4 Q But you've only ever gotten one letter?  
5 A I've only gotten one letter. I can't say  
6 anything else.  
7 Q Well, back to my question. Was a hearing ever  
8 scheduled for an appeal on the denial of the building permit  
9 in accordance with this November 10, 2000 letter?  
10 A I can't recall the time we met with Terry  
11 Williams. I cannot recall the hearing we had with Terry  
12 Williams, what day it was, when it was.  
13 Q Well, the hearing you had with Terry Williams  
14 was in the county court suit up there, right? Is that what  
15 you're talking about?  
16 A Yes, and that's what we -- I thought that's  
17 when this stuff took -- was taken care of.  
18 Q I'm going to show you a copy of a letter that  
19 we're going to mark as Wirth Exhibit 13 now.  
20 (Letter dated 10/10/00 produced and marked as  
21 Wirth Exhibit No. 13.)  
22 BY MS. MONTGOMERY:  
23 Q Before we even go back and talk about that, I  
24 just want to go back to what you testified to a couple  
25 minutes ago. You had said that you couldn't respond before

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1 to my question about whether you were aware of a hearing on  
2 Mr. Corneal's appeal of the denial of his building permit  
3 because there was another issue, there were two issues, and  
4 I need you to identify the issue, okay?  
5 A Okay.  
6 Q What was the other issue?  
7 A Now, I'm asking you to talk about the new  
8 submissions that he has and the old submissions that he has  
9 because they were handled in two different fashions.  
10 Q What do you mean they were handled in two  
11 different fashions?  
12 A Well, Terry Williams submits everything here,  
13 okay. This one was directly submitted to me, okay, and this  
14 was --  
15 Q When you say this one, what are you referring  
16 to?  
17 A This letter, Number 13, this came to me.  
18 Those building permits came to me.  
19 Q You're looking at Number 13 and you're saying  
20 the letter from David Van Dommelen dated April 10, 2000 came  
21 to you?  
22 A No, no, not the letter.  
23 Q Okay, what?  
24 A Mr. Corneal's application, he sent them to me,  
25 with drawings that he had drawn by hand attached, and that's

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1 the answer -- this is the answer to that. And I'm assuming  
2 that's what this is about, but I don't know.  
3 Q So you're saying the October 10, 2000 letter  
4 from Mr. Van Dommelen is a response to Mr. Corneal's request  
5 for a building permit?  
6 A The first building permit.  
7 Q When Mr. Van Dommelen sent this letter out to  
8 Mr. and Mrs. Corneal that we've marked Wirth 13, did you get  
9 a copy of it?  
10 A Obviously. I gave you one.  
11 Q Well, you gave it to me. Did you get a copy  
12 of it when it went out?  
13 A I probably did. I have a file.  
14 Q Do you know who drafted the letter?  
15 A You'll have to talk to David about that.  
16 Q Did you draft the letter?  
17 A No.  
18 Q Does he have somebody who does his typing?  
19 A You'll have to talk to him.  
20 Q Do you do his typing ever?  
21 A No.  
22 Q I see up at the top here it has Jackson  
23 Township Board of Supervisors, R.D. 1, Box 390. That's your  
24 home box, right?  
25 A Yeah, that's not right.

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1 Q So Mr. Van Dommelen has an office where he  
2 lives, where he keeps documents, but he uses Jackson  
3 Township Board of Supervisor's address for his  
4 correspondence?  
5 A **In this case he did.**  
6 Q Let me ask you this: Does Mr. Van Dommelen --  
7 is it your understanding within the township governing body  
8 that Mr. Van Dommelen passes on compliance with the  
9 Pennsylvania Sewage Facilities Act? Let me direct your  
10 attention to the October 10, 2000 letter marked Wirth 13.  
11 A **Pennsylvania Sewage Facility Act is addressed**  
12 **in our building permit ordinance.**  
13 Q So Mr. Van Dommelen passes on whether or not  
14 individuals requesting a building permit have complied with  
15 the Pennsylvania Sewage Facilities Act?  
16 A **According to the ordinance, you have to have a**  
17 **sewage permit if you're going to build a property and he**  
18 **would say no to that if you didn't have one.**  
19 Q So Mr. Van Dommelen would communicate with Mr.  
20 Parks about whether or not he's got a sewage permit, right?  
21 A **No, you don't -- anybody that goes to get a**  
22 **permit normally has a sewage permit, if they're building a**  
23 **house.**  
24 Q Let me ask you this: Do you know whether or  
25 not you need a sewage permit for a garage?

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1 Q Now, you received these letters, correct?  
2 A **Yes.**  
3 Q Did you receive the attachments that you see  
4 here?  
5 A **To the best of my knowledge.**  
6 Q Were there also sewer modules attached to this  
7 when it came to you originally in the August, September 2000  
8 time frame?  
9 A **I don't remember.**  
10 Q What did you do with this submission when you  
11 received it?  
12 A **I don't remember what we did with it.**  
13 Q Is this what you were referring to as Mr.  
14 Corneal's second request for a building permit?  
15 A **I believe so.**  
16 Q Did you give this to the supervisors?  
17 A **I'm sure I did.**  
18 Q Did you pass it onto the building inspector or  
19 the building permit officer?  
20 A **I must have.**  
21 Q Did you have any discussion with the  
22 supervisors or the building permit officer about this  
23 building permit application?  
24 A **I don't recall.**  
25 Q Do you know whether it was ever acted on?

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1 A **No.**  
2 Q You don't think you do?  
3 A **If you're just building a garage and nothing**  
4 **else.**  
5 Q Okay.  
6 (Discussion held off the record.)  
7 MS. MONTGOMERY: I'm going to take a break and  
8 look at our documents and then we're going to come back and  
9 finish this up.  
10 (Break taken at 2:42 p.m. until 3:01 p.m.)  
11 BY MS. MONTGOMERY:  
12 Q I want to show you a series of documents  
13 attached together that we are going to mark as Wirth  
14 Exhibit 14.  
15 (Packet of documents produced and marked as  
16 Wirth Exhibit No. 14.)  
17 (Discussion held off the record.)  
18 BY MS. MONTGOMERY:  
19 Q This is Wirth Exhibit 14. After you take a  
20 moment to look at that, Miss Wirth, at this collection of  
21 documents, would you tell me if you recognize it.  
22 A **Yes.**  
23 Q Do you see that there are two letters, an  
24 August 31, 2000 and a September 1, 2000 letter, correct?  
25 A **Right.**

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1 A **I don't recall.**  
2 Q Did you ever discuss this second set of  
3 building applications with Attorney Newton?  
4 A **Probably.**  
5 Q Why do you say probably?  
6 A **Because there's a lot of things happening and**  
7 **I'm not sure which players are involved. I'm not sure if**  
8 **this is the -- I'm not sure.**  
9 Q So if you call this the second attempt to  
10 obtain a building permit, what was the first attempt, do you  
11 recall?  
12 A **I'm not sure. I'm not sure.**  
13 Q Well, whether or not it was the first or  
14 second, what do you know about any other attempt by Mr.  
15 Corneal to obtain a building permit?  
16 A **Only what I've testified.**  
17 Q Well, what you've testified to so far, you're  
18 saying?  
19 A **Yes.**  
20 Q Do you know whether or not Mr. Corneal ever  
21 went out to Mr. Van Dommelen's residence to try and obtain a  
22 building permit?  
23 A **Yes.**  
24 Q What do you know about that?  
25 A **I can't testify to that because I only know**



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1 **what I heard.**  
2 Q What did you hear?  
3 MR. SHERR: Object to the form of the  
4 question, calls for hearsay. You can answer it.  
5 THE WITNESS: I don't really know what  
6 happened out there. I was not there.  
7 BY MS. MONTGOMERY:  
8 Q I'm not asking you what you know, I'm asking  
9 you what you heard, which you're allowed to testify to in a  
10 deposition.  
11 MR. SHERR: Same objection. Subject to the  
12 objection, you can answer.  
13 THE WITNESS: That he didn't give him a  
14 permit.  
15 BY MS. MONTGOMERY:  
16 Q Why didn't he give him a permit?  
17 MR. SHERR: Same objection. You can answer,  
18 same basis.  
19 BY MS. MONTGOMERY:  
20 Q You can answer it.  
21 A **The same reason we've talked about all day.**  
22 Q And what was that we've talked about all day?  
23 A **He didn't have the proper documentation.**  
24 Q Do you know whether he was even given an  
25 application when he went out to Mr. Van Dommelen's?

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1 MR. SHERR: Well, you can't give her  
2 instructions. You can ask her questions.  
3 MS. MONTGOMERY: I can make a record of it if  
4 I want to.  
5 MR. SHERR: You can make a record of anything  
6 you want, but you need to ask her questions.  
7 MS. MONTGOMERY: That's what I did.  
8 MR. SHERR: Are you done with the deposition?  
9 MS. MONTGOMERY: No.  
10 MR. SHERR: Well, then ask her a question.  
11 BY MS. MONTGOMERY:  
12 Q Did you bring any documents with you today to  
13 this deposition?  
14 A **No, I...**  
15 Q Were you instructed by anybody whether or not  
16 to bring any documents with you to this deposition today?  
17 A **No.**  
18 Q You weren't instructed one way or the other?  
19 A **No.**  
20 Q Did you ever discuss with Mr. Parks his review  
21 of the Corneal sewage module?  
22 A **I don't believe so.**  
23 Q Does the board of supervisors have a  
24 particular procedure that you're aware of for review and  
25 approval of sewage modules?

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1 A **From a letter that I read, no. This letter, I**  
2 **think. Somewhere there's something that said he wasn't.**  
3 Q Had you heard anything about that before that?  
4 A **I don't know.**  
5 Q Did you have a copy of this letter to you, the  
6 August 31 and September 1 letter in your files?  
7 A **I gave you these.**  
8 Q You gave me these?  
9 A **I believe. No? Well, then I do. I know that**  
10 **-- I thought that was my number because I was writing on**  
11 **there.**  
12 MR. SHERR: Answer her question.  
13 THE WITNESS: Okay. I do.  
14 BY MS. MONTGOMERY:  
15 Q So you do have them in your files?  
16 A **Yes.**  
17 Q Miss Wirth, I'm going to ask you to take our  
18 document request -- which you have a copy of, correct?  
19 A **Yes.**  
20 Q And review it again with your counsel and see  
21 whether there are any other documents responsive to the  
22 document request and provide them to us immediately, okay.  
23 MR. SHERR: Is that a question?  
24 MS. MONTGOMERY: No, it's an instruction, it's  
25 a request.

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1 A **I think I did testify that -- to that earlier.**  
2 Q I don't recall you testifying to it but --  
3 A **It's attached to the plot plan, the same thing**  
4 **as we review from the county. It's the same review.**  
5 Q So let me ask you this: In your experience is  
6 it correct that the sewage enforcement officer, Barry Parks,  
7 first reviews the sewage module and signs off on them; is  
8 that correct?  
9 A **I'm not sure what the procedure is.**  
10 Q You have no idea?  
11 A **No, I don't know.**  
12 Q Do you know whether or not the township has  
13 ever rejected any sewage module that was approved by Barry  
14 Parks?  
15 A **I have no idea.**  
16 Q You have no idea. Do you know whether they  
17 rejected Mr. Corneal's sewage module?  
18 A **Yes.**  
19 Q Was it approved by Mr. Parks?  
20 A **I don't know.**  
21 Q Did you ever direct Mr. Parks or at least  
22 suggest to Mr. Parks that he go out to Mr. Corneal's  
23 property in 2001, in the year 2001, and reinspect his  
24 property to see whether there was sewage enforcement  
25 compliance?



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1 A Me personally?  
2 Q Yes.  
3 A No.  
4 Q Did you ever pass along to him a request from  
5 anybody else to do that?  
6 A I don't think I did that.  
7 Q Did the supervisors to your knowledge ever --  
8 A You'll have to ask them.  
9 Q Well, I'm asking you if in your presence or to  
10 your knowledge whether --  
11 A I don't recall.  
12 Q Let me finish my question. Whether the  
13 supervisors instructed Barry Parks to go back out to Mr.  
14 Corneal's property and reinspect his sewage sites.  
15 A I don't recall.  
16 Q Did you ever discuss it with Larry Newton  
17 whether Mr. Parks ought to go back out to Mr. Corneal's  
18 property and reinspect the test sites for sewage?  
19 A I don't recall.  
20 Q At one point when I asked you this question  
21 earlier about whether or not you asked or suggested to Barry  
22 Parks that he go back out to the Corneal property, you said  
23 not me personally.  
24 A No, I asked you a question, if you meant me  
25 personally.

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1 Q Oh, okay.  
2 A So I understood what you were asking me.  
3 Q Okay.  
4 A It's been a long day.  
5 Q Yes. So your answer is no, you personally did  
6 not?  
7 A No.  
8 Q Do you recall anybody suggesting that Barry  
9 Parks go back out to the Corneal's property to reinspect the  
10 test sites for sewage?  
11 A Not that I recall.  
12 Q Do you know how it came to occur that --  
13 A No.  
14 Q -- Mr. Parks went back out there?  
15 A No.  
16 Q You don't know, okay. Are you aware of a  
17 complaint that was filed against the Corneals concerning  
18 possible wetlands on their property?  
19 A I know of it.  
20 Q Do you know who filed -- who made that  
21 complaint?  
22 A I have no idea.  
23 Q How do you know of it?  
24 A Because it's in one of these documents that's  
25 here.

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1 Q Do you know who the complaint was made to?  
2 A I have no idea. I think it says Army Corps of  
3 Engineers or something.  
4 Q The Army Corps of Engineers. Was there any --  
5 do you recall discussing that complaint with anybody else at  
6 all?  
7 A No.  
8 Q Do you recall anybody else discussing that  
9 complaint in your presence?  
10 A No.  
11 Q Have you seen any written correspondence  
12 about that complaint?  
13 A No.  
14 Q Is the only knowledge that you have about that  
15 complaint against the Corneals what you saw in a letter here  
16 somewhere?  
17 A Yes.  
18 Q After the initiation of the lawsuit?  
19 A Yes.  
20 Q So you didn't know about it before the  
21 initiation of the lawsuit?  
22 A No.  
23 Q When I asked you briefly earlier about whether  
24 or not you were familiar with the report from Blazosky and  
25 Associates --

201

1 A From what?  
2 Q I think it's -- am I saying that right?  
3 Blazosky and Associates on wetlands on the Corneal property.  
4 A Okay, yeah.  
5 Q I asked you earlier had you ever seen that  
6 report when it came out.  
7 A I don't recall.  
8 Q Do you recall whether or not it was discussed  
9 among the supervisors?  
10 A No.  
11 Q Do you have a copy of that report in your  
12 files?  
13 A I don't know.  
14 Q Do you know how it came to occur that Mr.  
15 Corneal had to supply a third-party certification that the  
16 sites already approved by the sewage enforcement officer  
17 were not located in wetlands?  
18 A No.  
19 Q You don't know how it came -- did you ever  
20 hear it discussed?  
21 A No.  
22 Q Let me ask you a very broad, general question  
23 about it. Did you know anything about it -- do you right  
24 now know anything about it?  
25 A I don't know what you mean.

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<p style="text-align: right;">202</p> <p>1 Q The sewage enforcement officer having 2 determined that there are no wetlands on the Corneal 3 property, okay. Do you know anything about the board or 4 anybody else requiring that a third party certify that the 5 sewage enforcement officer was correct in that 6 determination? 7 A No. 8 Q Do you know anything about Mr. Wilson's 9 interest in the property now owned by the Corneals? 10 A No. 11 Q Do you know anything about his family's prior 12 ownership of it? 13 A No. 14 Q You don't? 15 A No. 16 Q Do you know anything about the history of that 17 property at all? 18 A No. 19 Q Are you ever involved in any way, whether it's 20 through maintenance of records or passing correspondence, in 21 the issuance of privy permits in the township? 22 A No. 23 Q That stuff never comes across your desk? 24 A Nope. 25 Q Did anybody ever call you and inquire about</p>	<p style="text-align: right;">204</p> <p>1 A Yes. 2 Q Supervisors, I should say. 3 A Yes. 4 Q Did one supervisor in particular ask you to 5 make that phone call? 6 A No. 7 Q Did you generally understand you were supposed 8 to make that phone call? 9 A Yes. 10 Q So you took it upon yourself to make the phone 11 call without a specific instruction on that particular 12 occasion? 13 A That's right. That's exactly right. 14 Q Did you discuss the refusal to provide a privy 15 permit to Mr. Corneal with Mr. Newton? 16 A I don't know if I ever did or not. 17 Q In your discussion with Mr. Parks about 18 whether or not to provide a privy permit to Mr. Corneal, how 19 long did you talk to him? 20 A I have no idea. 21 Q Did you call him at his house? 22 A Yes. 23 Q So you don't know exactly how long you talked 24 to him. Do you know when you talked to him? 25 A After the meeting.</p>
<p style="text-align: right;">203</p> <p>1 it? 2 A Not to the best of my knowledge. 3 Q Do you know anything about the granting of 4 privy permits in the township? 5 A No, I do not. 6 Q Have you ever had any conversations with Mr. 7 Parks about the issuance of privy permits? 8 A Yes. 9 Q What's the nature of those conversations? 10 A I told him the result -- what the supervisors 11 said the night of our meeting, that's all I did. 12 Q The night of what meeting? 13 A The meeting that -- I don't know what meeting 14 it was. After the meeting of April 3rd. 15 Q What did the supervisors say at the meeting of 16 April 3rd? 17 A That Mr. Corneal could not have a privy 18 permit. 19 Q So you passed that information on to Mr. 20 Parks? 21 A Barry Parks. 22 Q Did you call him? 23 A Yes, I did. 24 Q Did you do so at the instructions of the 25 supervisor?</p>	<p style="text-align: right;">205</p> <p>1 Q The same night of the meeting? 2 A Yes. 3 Q Immediately after the meeting? 4 A I don't know. 5 Q I may have asked you this, and I apologize, 6 but do you recall the back and forth between you and Mr. 7 Parks about whether or not to issue a privy permit? 8 A Do I what? 9 Q Do you recall the substance of the 10 conversation? 11 A No. All I did -- well, I guess I do. I just 12 repeated what happened at the meeting and that's all I did. 13 Q What did Mr. Parks say? 14 A I don't know as he said anything. I just told 15 him what happened. 16 Q Did you ever talk to Mr. Parks about issuing 17 the Corneals a privy permit? 18 A Not that I remember. 19 Q Did you seek any advice from Larry Newton in 20 this regard? 21 A I don't -- not that I recall. 22 Q Did the Corneals ever contact you directly 23 about getting a privy permit? 24 A Not that I recall. 25 Q When you called Mr. Parks, did you say to him</p>

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<p style="text-align: right;">206</p> <p>1 something along these lines, and if I'm wrong correct me and</p> <p>2 tell me what you said, okay, the supervisors said do not</p> <p>3 issue a privy permit to Mr. Corneal; is that correct?</p> <p>4 <b>A What I said was what was in the minutes.</b></p> <p>5 <b>Q</b> As you said, the minutes are a summary of what</p> <p>6 goes on at the meetings. I'm just asking you if you can be</p> <p>7 a little more specific in what you said to him.</p> <p>8 <b>MR. SHERR:</b> I'm going to object to the form of</p> <p>9 the question. It's been asked and answered and at this</p> <p>10 point we're getting very argumentative, Counsel.</p> <p>11 <b>MS. MONTGOMERY:</b> Really?</p> <p>12 <b>MR. SHERR:</b> Yeah, really. Yeah, really. When</p> <p>13 she says it's what's in the minutes and you're asking her</p> <p>14 for more specificity and she said what's in the minutes, I</p> <p>15 think that's pretty specific.</p> <p>16 <b>MS. MONTGOMERY:</b> I'm entitled.</p> <p>17 <b>MR. SHERR:</b> You're entitled to what?</p> <p>18 <b>MS. MONTGOMERY:</b> I'm entitled to seek</p> <p>19 information.</p> <p>20 <b>MR. SHERR:</b> You are absolutely entitled to</p> <p>21 seek information. You're not entitled to harass this</p> <p>22 witness, you're not entitled to be argumentative with this</p> <p>23 witness and you're not allowed to oppress this witness. You</p> <p>24 can answer, if it's anything other than what's in the</p> <p>25 minutes as you stated.</p>	<p style="text-align: right;">208</p> <p>1 <b>Q</b> How long have you lived in Jackson Township?</p> <p>2 <b>A Eleven years.</b></p> <p>3 <b>Q</b> Where did you live before that?</p> <p>4 <b>A Camp Hill.</b></p> <p>5 <b>Q</b> Did you own property up there before you moved</p> <p>6 up there 11 years ago?</p> <p>7 <b>A Yes.</b></p> <p>8 <b>Q</b> How long did you own that property?</p> <p>9 <b>A 1988.</b></p> <p>10 <b>Q</b> Did you own any property before you owned that</p> <p>11 particular property?</p> <p>12 <b>A Where?</b></p> <p>13 <b>Q</b> Up in Jackson Township.</p> <p>14 <b>A No.</b></p> <p>15 <b>Q</b> Do you have family up there?</p> <p>16 <b>A Yes.</b></p> <p>17 <b>Q</b> Who is that?</p> <p>18 <b>A Nobody in Jackson Township, if that's what</b></p> <p>19 <b>you're asking.</b></p> <p>20 <b>Q</b> That's what I'm asking, right.</p> <p>21 <b>A No, I don't have any family.</b></p> <p>22 <b>Q</b> Were you aware that Eagle Excavation was hired</p> <p>23 to perform excavation work for test pits on the Corneal</p> <p>24 property?</p> <p>25 <b>A When?</b></p>
<p style="text-align: right;">207</p> <p>1 <b>THE WITNESS:</b> It's what I just said.</p> <p>2 (Discussion held off the record.)</p> <p>3 <b>BY MS. MONTGOMERY:</b></p> <p>4 <b>Q</b> Are you aware of the contract that existed</p> <p>5 between Mr. Corneal and the Hewetts for the purchase of the</p> <p>6 farmhouse and some surrounding property that's located on</p> <p>7 the larger piece owned by Mr. Corneal?</p> <p>8 <b>A I'm aware they had an agreement.</b></p> <p>9 <b>Q</b> How did you become aware of that?</p> <p>10 <b>A I think -- I don't know, somewhere in this.</b></p> <p>11 <b>Q</b> When did you first hear about it?</p> <p>12 <b>A I don't -- I don't recall.</b></p> <p>13 <b>Q</b> Did you ever discuss that contract with</p> <p>14 anybody else?</p> <p>15 <b>A No.</b></p> <p>16 <b>Q</b> Did you ever discuss whether or not the</p> <p>17 Hewetts were going to go forward with their sale -- purchase</p> <p>18 of that property with anybody else?</p> <p>19 <b>A I have no reason.</b></p> <p>20 <b>Q</b> Do you know whether anybody else is interested</p> <p>21 in purchasing the farmhouse located on Mr. Corneal's</p> <p>22 property?</p> <p>23 <b>A I have no reason to have that information.</b></p> <p>24 <b>Q</b> I just asked you do you know.</p> <p>25 <b>A No.</b></p>	<p style="text-align: right;">209</p> <p>1 <b>Q</b> At the time that they were hired to do so.</p> <p>2 <b>A No.</b></p> <p>3 <b>Q</b> You were not aware of that?</p> <p>4 <b>A No.</b></p> <p>5 <b>Q</b> Were you aware of Mr. Wilson doing any work up</p> <p>6 on the Corneal property whatsoever?</p> <p>7 <b>A When?</b></p> <p>8 <b>Q</b> At the time that he performed the work.</p> <p>9 <b>A No.</b></p> <p>10 <b>Q</b> Now, you asked me when. When did you become</p> <p>11 aware?</p> <p>12 <b>A From the documents.</b></p> <p>13 <b>Q</b> Just from the documents in this lawsuit?</p> <p>14 <b>A Right.</b></p> <p>15 <b>Q</b> After you initially called Mr. Parks and told</p> <p>16 him that he wasn't supposed to issue a privy permit</p> <p>17 according to the supervisors, did you ever call him back and</p> <p>18 talk to him again?</p> <p>19 <b>MR. SHERR:</b> Object to the form of the question</p> <p>20 of misstating her prior testimony.</p> <p>21 <b>BY MS. MONTGOMERY:</b></p> <p>22 <b>Q</b> I'll just try and rephrase it. Maybe I missed</p> <p>23 something, but after you called Mr. Parks and informed him</p> <p>24 that the supervisors said that he was not to be issued a</p> <p>25 privy permit, did you ever call -- talk to him again about</p>

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<p style="text-align: right;">210</p> <p>1 whether or not to issue the Corneals a privy permit?</p> <p>2 <b>A You asked me that before and I said no.</b></p> <p>3 <b>Q Did you ever talk --</b></p> <p>4 <b>A Not that I recall.</b></p> <p>5 <b>Q Did you ever talk to him again about whether</b></p> <p>6 <b>or not he ought to approve the sewage modules?</b></p> <p>7 <b>A No.</b></p> <p>8 <b>Q Did you ever call Mr. Van Dommelen with any</b></p> <p>9 <b>information about whether or not he ought to issue a</b></p> <p>10 <b>building permit to the Corneals?</b></p> <p>11 <b>A No.</b></p> <p>12 <b>Q I'm going to show you a document we are going</b></p> <p>13 <b>to mark as Wirth Exhibit 15.</b></p> <p>14 <b>(Letter dated 5/5/00 produced and marked as</b></p> <p>15 <b>Wirth Exhibit No. 15.)</b></p> <p>16 <b>BY MS. MONTGOMERY:</b></p> <p>17 <b>Q Have you seen this document before, Miss</b></p> <p>18 <b>Wirth?</b></p> <p>19 <b>A Yes.</b></p> <p>20 <b>Q In what capacity have you seen it?</b></p> <p>21 <b>A It's in all this stuff I have.</b></p> <p>22 <b>Q The document is dated May 5th, 2000, correct?</b></p> <p>23 <b>A Yes.</b></p> <p>24 <b>Q Were you given a copy of this document by Mr.</b></p> <p>25 <b>Van Dommelen?</b></p>	<p style="text-align: right;">212</p> <p>1 <b>BY MS. YANKANICH:</b></p> <p>2 <b>Q In case I haven't introduced myself, Miss</b></p> <p>3 <b>Wirth, I'm Jennifer Yankanich and I represent Larry Newton.</b></p> <p>4 <b>A Yes.</b></p> <p>5 <b>Q I want to go back and retrace some of these</b></p> <p>6 <b>steps so that I understand very clearly what kind of</b></p> <p>7 <b>communications you had with Larry Newton and so forth. So</b></p> <p>8 <b>I'd like to start with the period of 1997 to '98, which is</b></p> <p>9 <b>roughly when you said you started research on the</b></p> <p>10 <b>subdivision ordinance.</b></p> <p>11 <b>A Very little probably. I don't recall.</b></p> <p>12 <b>Q But you did start research before you actually</b></p> <p>13 <b>enacted the subdivision ordinance; is that correct?</b></p> <p>14 <b>A Oh, yes.</b></p> <p>15 <b>Q And the three supervisors asked you to do that</b></p> <p>16 <b>research.</b></p> <p>17 <b>A Oh, yes.</b></p> <p>18 <b>Q Did you have any contact during that research</b></p> <p>19 <b>with Larry Newton?</b></p> <p>20 <b>A Between '97 and '98?</b></p> <p>21 <b>Q At any time during the research and before the</b></p> <p>22 <b>ordinance was enacted.</b></p> <p>23 <b>A Oh, yes.</b></p> <p>24 <b>Q What kind of communications were they?</b></p> <p>25 <b>A Well, he typed the final -- he typed the</b></p>
<p style="text-align: right;">211</p> <p>1 <b>A I don't know how I got the document.</b></p> <p>2 <b>Q Did you have a copy of it in your files?</b></p> <p>3 <b>A Yes.</b></p> <p>4 <b>Q Did you provide it to us?</b></p> <p>5 <b>A I don't know if I did or not.</b></p> <p>6 <b>Q Did you ever discuss this letter with any of</b></p> <p>7 <b>the board of the township supervisors?</b></p> <p>8 <b>A I don't recall.</b></p> <p>9 <b>Q Did you ever discuss it with Mr. Van Dommelen?</b></p> <p>10 <b>A I don't -- I don't know. I don't recall.</b></p> <p>11 <b>Q More generally did you ever discuss it with</b></p> <p>12 <b>anybody at any time?</b></p> <p>13 <b>A I don't recall.</b></p> <p>14 <b>MS. MONTGOMERY: I don't think I have any</b></p> <p>15 <b>other questions for you at this time, subject to our receipt</b></p> <p>16 <b>of additional documents from your files and review of</b></p> <p>17 <b>additional documents in Jackson Township and subject to what</b></p> <p>18 <b>my client has to say right now about additional questions.</b></p> <p>19 <b>I think we're finished for now, Miss Wirth.</b></p> <p>20 <b>THE WITNESS: Thank you.</b></p> <p>21 <b>MS. YANKANICH: I have some questions for you.</b></p> <p>22 <b>I know it's been a long day and I'll try to be brief.</b></p> <p>23</p> <p>24 <b>CROSS-EXAMINATION</b></p> <p>25</p>	<p style="text-align: right;">213</p> <p>1 <b>ordinance that we came up with.</b></p> <p>2 <b>Q Larry Newton did?</b></p> <p>3 <b>A Yes.</b></p> <p>4 <b>Q So --</b></p> <p>5 <b>A Before the final -- I mean, it was a draft.</b></p> <p>6 <b>He did that.</b></p> <p>7 <b>Q When you were doing -- what kind of research</b></p> <p>8 <b>were you doing on the ordinance?</b></p> <p>9 <b>A That's what I testified, on all the other</b></p> <p>10 <b>subdivision ordinances that we got and we divided and</b></p> <p>11 <b>subtracted and put things together for Jackson Township.</b></p> <p>12 <b>Q You stated that you had work groups with the</b></p> <p>13 <b>three other supervisors?</b></p> <p>14 <b>A Yes, we did.</b></p> <p>15 <b>Q Now, how did Larry Newton come into the</b></p> <p>16 <b>works? For instance, during these work groups if you had</b></p> <p>17 <b>questions, did you call Larry Newton?</b></p> <p>18 <b>A I don't recall if we called him from those</b></p> <p>19 <b>work groups. I don't know that. I don't remember.</b></p> <p>20 <b>Q Well, who made the decision on what parts to</b></p> <p>21 <b>put into the subdivision ordinance?</b></p> <p>22 <b>A The supervisors.</b></p> <p>23 <b>Q Did you at any time contact Larry Newton and</b></p> <p>24 <b>get his approval as to what was included in your draft</b></p> <p>25 <b>ordinance?</b></p>

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1 A To get his approval?  
 2 Q Yes. When your supervisors made the decision  
 3 on what specific parts to put into this draft ordinance, did  
 4 they seek the approval of Larry Newton?  
 5 A I don't know if they ever asked for his  
 6 approval.  
 7 Q Did you ever -- you testified earlier you  
 8 weren't sure who asked you or who stated they wanted a  
 9 subdivision ordinance. Did you ever ask Larry Newton  
 10 whether or not the township could enact such an ordinance?  
 11 A Probably.  
 12 Q Was that before your research was started?  
 13 A I don't remember.  
 14 Q Do you remember that you did in fact ask him  
 15 whether you could have such an ordinance?  
 16 A I don't recall.  
 17 Q Now, throughout your workshops when did Larry  
 18 Newton get involved in typing the draft?  
 19 A You want a time?  
 20 Q Yes. For instance, you've told me that you  
 21 did some research, you gathered some other documents from  
 22 other townships who had such an ordinance, you and the three  
 23 supervisors sat down and picked some parts out of each of  
 24 these to put into yours. I'm asking you how Larry Newton  
 25 came to even start to type this.

216

1 Q Before January 2000 when the moratorium was  
 2 voted on and passed --  
 3 A Um-hum.  
 4 Q -- did you ever ask Larry Newton whether or  
 5 not passing such a moratorium was legal?  
 6 A I don't recall if I did or not.  
 7 Q Do you recall if any of the supervisors asked  
 8 Larry Newton that?  
 9 A You'll have to ask them that.  
 10 Q Do you recall ever discussing the moratorium  
 11 prior to when it was passed with Larry Newton?  
 12 A I don't recall.  
 13 Q Before January 2000 did you have any knowledge  
 14 of David Corneal's property and what he was proposing to do  
 15 with it?  
 16 A No, I did not.  
 17 Q So did you have any discussions with Larry  
 18 Newton prior to January 2000 regarding David Corneal's  
 19 properties?  
 20 A No, not to -- no.  
 21 Q In January 2000 the moratorium was passed?  
 22 A Right.  
 23 Q You just stated you did not have any  
 24 conversations with Larry Newton regarding that moratorium;  
 25 is that correct?

215

1 A We took it into him and asked him to look at  
 2 -- look at it legally, I guess.  
 3 Q So you already had a draft?  
 4 A Yeah -- well, no, we didn't have a draft.  
 5 Q What did you submit to him?  
 6 A The pieces that we had.  
 7 Q And what did you specifically ask him about  
 8 those pieces?  
 9 A He just needed to look at them for, I guess,  
 10 the legal aspect of the thing, not as far as how they --  
 11 what it did to the township, but were they legal, I guess.  
 12 I don't know what he was doing. I just know that he did it.  
 13 Q Did you have that contact with Larry Newton or  
 14 did the supervisors?  
 15 A Probably me.  
 16 Q So were you always the go-between between  
 17 Larry Newton and the supervisors?  
 18 A No.  
 19 Q Was there a situation with regard to this  
 20 draft ordinance where the supervisors went directly to Larry  
 21 Newton to ask questions?  
 22 A You're only talking about the ordinance now?  
 23 Q The draft ordinance before it was enacted.  
 24 A I don't think so, but I don't -- I don't think  
 25 they went without me, but I don't know that for sure.

217

1 A I said I couldn't recall.  
 2 Q You couldn't recall. Do you recall if any of  
 3 the supervisors asked you to research whether or not you  
 4 could -- they could pass such a moratorium?  
 5 A I don't recall how we came about that.  
 6 Q Typically if the supervisors wanted to do  
 7 something, such as pass a moratorium or pass a resolution or  
 8 pass an ordinance, would they ask you to research it?  
 9 A It depends. Sometimes.  
 10 Q Fifty percent of the time?  
 11 A Maybe.  
 12 Q Most of the time?  
 13 A I would say about 50 percent of the time.  
 14 Q You don't recall whether or not the  
 15 supervisors asked you to research whether they could pass a  
 16 moratorium?  
 17 A I don't recall how that happened.  
 18 Q When was the first time that you heard a  
 19 moratorium was going to be passed?  
 20 A I don't -- I don't know. I don't recall.  
 21 Q Did you show up at the January meeting and  
 22 somebody brought up the issue of a moratorium?  
 23 A I was at the January meeting.  
 24 Q That was the first time you heard about a  
 25 moratorium?



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1 A I don't recall.  
2 Q And so we're clear, you had not heard of David  
3 Corneal before January 2000?  
4 A No.  
5 Q The moratorium was passed on January 4th  
6 during the meeting; is that correct?  
7 A Right.  
8 Q By a unanimous vote of the three supervisors?  
9 A Yes.  
10 Q Were you involved with that vote?  
11 A I don't have a vote.  
12 Q If you had sought the advice of Larry Newton,  
13 do the supervisors typically take your advice or do they ask  
14 Larry Newton themselves?  
15 A Typically take my advice?  
16 MR. SHERR: Make sure she can hear you.  
17 THE WITNESS: Oh, you're still recording this?  
18 MS. YANKANICH: Yes, we're still on the  
19 record. You're still under oath.  
20 MR. SHERR: She got it.  
21 MS. YANKANICH: I'm not being confrontational  
22 at all. I'm just letting her know that she's on the record.  
23 MR. SHERR: I know you're not. She answered  
24 the question.  
25 BY MS. YANKANICH:

219

1 Q Oh, you answered my question. Typically if  
2 you asked Larry Newton a question -- the supervisors asked  
3 you to ask Larry Newton a question, do they come to you and  
4 say what did he say or do they ask him themselves?  
5 A I'd say it's about a fifty-fifty thing.  
6 Q So if you went to Larry Newton and said can we  
7 pass a moratorium in January and he says, let's just say,  
8 yes, we can, you would report that back to the supervisors?  
9 A If he did that, I would have.  
10 Q And they would act upon that advice without  
11 confirming it themselves typically?  
12 A Sometimes, sometimes not.  
13 Q Did Larry Newton tell you to enact a  
14 moratorium?  
15 A I don't recall how that came about.  
16 Q You don't recall if it came about from a  
17 supervisor or from Larry Newton?  
18 A I don't recall how it came about.  
19 Q On February 7th when David Corneal submitted  
20 his subdivision plan to the three supervisors, do you recall  
21 at the meeting before they denied it, do you recall if the  
22 supervisors stopped the meeting, called their attorney,  
23 Larry Newton, and discussed the matter with him before  
24 refusing the denial?  
25 A I know they didn't do that.

220

1 Q So they denied his subdivision plan prior to  
2 calling Larry Newton on February 7th?  
3 A Yes.  
4 Q Did they at any time after the February 7th  
5 meeting consult with Larry Newton regarding the first  
6 subdivision plan that David Corneal submitted?  
7 A I'm sure they did.  
8 Q Were you present at any of those meetings?  
9 A I don't recall.  
10 Q Did you consult with Larry Newton after  
11 February 7th regarding the first subdivision plan that David  
12 Corneal submitted?  
13 A I don't recall if I did or not.  
14 Q You said that you thought the supervisors  
15 did. Why do you think that?  
16 A Somebody did.  
17 Q How do you know that?  
18 A Because he's been aware of what we've been  
19 doing.  
20 Q Was he aware from the beginning?  
21 A I don't -- beginning of what?  
22 Q February 7th is the first time you stated that  
23 David Corneal came to your knowledge. You didn't know about  
24 David Corneal and his property before then?  
25 A No, I didn't.

221

1 Q So February 7th he walks into the meeting  
2 where you're taking the minutes, he submits his plan and the  
3 three supervisors deny it. Did somebody get on the phone  
4 right after that and talk to Larry Newton to inform him,  
5 hey, we've got to let you know what's going on here?  
6 A You mean that night?  
7 Q Anytime after February 7th.  
8 A Yes, somebody did.  
9 Q When was that?  
10 A I don't know.  
11 Q Do you know who it was?  
12 A No.  
13 Q How do you know that Larry Newton was aware of  
14 the denial of the board on February 7th?  
15 A I don't know if it's in one of these documents  
16 -- I don't know. I don't know.  
17 Q Your testimony is that you're sure he was  
18 aware of what happened, what transpired at the February 7th  
19 meeting with David Corneal, but you don't know how?  
20 A I don't know how he got the information.  
21 Q You're sure he knew about it?  
22 MS. MONTGOMERY: I'm going to just -- I'm now  
23 in the position that you were in. I can see that the court  
24 reporter is struggling to hear. So can you keep your voice  
25 up.



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1 THE WITNESS: I'm sorry.  
2 BY MS. YANKANICH:  
3 Q Let me just repeat my question. You're sure  
4 that Larry Newton knows and knew right after the meeting  
5 what transpired at the February 7th, 2000 meeting?  
6 A I'm sure he knew. When he found -- we told  
7 him, but when he found out I don't know.  
8 Q Is it possible he found out about what  
9 happened at that meeting after this lawsuit was enacted, was  
10 initiated?  
11 A You mean after July 4th?  
12 Q Is it possible he found out after the county  
13 sued David Corneal for violation of building against --  
14 A Oh, no.  
15 Q He knew before then?  
16 A Oh, yeah.  
17 Q Now, on April 4th David Corneal came to the  
18 meeting to submit sewer modules. They were denied by the  
19 board; is that correct?  
20 A Yes.  
21 Q Did the three supervisors stop the meeting and  
22 seek advice from Larry Newton during the meeting?  
23 A No.  
24 Q Before that denial?  
25 A No.

223

1 Q Did you at any time consult with Larry Newton  
2 regarding the denial of the sewer modules on April 4th?  
3 A At the meeting?  
4 Q At the meeting.  
5 A No.  
6 Q How about after the meeting?  
7 A Not at that time.  
8 Q When did you consult with Larry Newton  
9 regarding the sewer modules?  
10 A I don't recall when we did that.  
11 Q You know that you did?  
12 A No, I don't know if we did. I don't know how  
13 he found that out.  
14 Q You believe that Larry Newton knows about the  
15 board's denial of Mr. Corneal's submission of a sewer  
16 module?  
17 A Yes.  
18 Q How do you think -- why do you believe he  
19 knows about that?  
20 A Because of all this paperwork. We all have  
21 these big packs of paperwork now because of the lawsuit and  
22 I believe it's in there, in my minutes.  
23 Q So you believe he knows about it, but you  
24 don't know when he found out?  
25 A No.

224

1 Q You never told him what happened at that  
2 meeting?  
3 A I don't know if I did or not.  
4 Q Is it customary after each meeting of the  
5 supervisors to call Larry Newton?  
6 A No.  
7 Q So the January 4th meeting, it's not customary  
8 to end the meeting and then call Larry Newton to discuss  
9 the --  
10 A No, it is not.  
11 Q That would be unusual to do that?  
12 A Yes, it would be.  
13 Q So even though it's unusual, it doesn't stand  
14 out in your mind that maybe somebody did that?  
15 A No.  
16 Q Mr. Corneal also requested a privy permit at  
17 one of these meetings. I apologize, I forget the date that  
18 he actually requested that permit. Do you recall?  
19 A I think it was April.  
20 Q Also April. It was denied as well; is that  
21 correct?  
22 A Yes.  
23 Q Did you seek the advice of Larry Newton with  
24 regard to the denial of that privy permit?  
25 A No, I don't think that -- did I seek it?

225

1 Q Did you.  
2 A No.  
3 Q Are you aware if any of the supervisors sought  
4 Larry Newton's approval before they denied the privy permit  
5 requested by David Corneal?  
6 A I am not aware of that.  
7 Q The first time that David Corneal requested a  
8 building permit -- I'm talking the first time -- did you  
9 yourself seek the advice or guidance of Larry Newton  
10 regarding that building permit request?  
11 A I don't know whether -- I don't -- I don't  
12 recall.  
13 Q Do you remember discussing this at all with  
14 Larry Newton?  
15 A I'm sure I've discussed it all with him.  
16 Q You've discussed the entire situation with  
17 Larry Newton?  
18 A At some time during this we've had a  
19 discussion.  
20 Q During the lawsuit?  
21 A Yes.  
22 Q Do you remember prior to the lawsuit talking  
23 to Larry Newton about David Corneal?  
24 A I probably did.  
25 Q Can you give me any of the specifics of that

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1 conversation?  
 2 A No.  
 3 Q Did you ever ask him whether what the board  
 4 was doing was legal?  
 5 A I don't think I ever asked that question.  
 6 Q Did you ever ask him whether or not you could  
 7 deny a privy permit?  
 8 A I never asked it -- I don't think I ever asked  
 9 him that question.  
 10 Q When he came to you and said he was no longer  
 11 going to subdivide and he wanted to build a garage, did you  
 12 seek the advice of Larry Newton?  
 13 A You mean during the meeting or whatever?  
 14 Q I'm saying at any time.  
 15 A At any time?  
 16 Q At any time did you seek the advice of Larry  
 17 Newton on behalf of yourself or the board members with  
 18 respect to any requests by David Corneal with his property?  
 19 A We've asked his advice.  
 20 Q Give me some of the specifics of that advice.  
 21 A It's very hard to say because we talk about a  
 22 lot of things. You know, there's a lot of things going on  
 23 here and you're asking for those items and I can't honestly  
 24 testify to those items. We've talked about everything in --  
 25 after the lawsuit and before and I'm not sure.

227

1 Q So you're not certain that you've ever had a  
 2 conversation with Larry Newton before the lawsuit was  
 3 initiated?  
 4 A Oh, I've had conversations with Larry before  
 5 the lawsuit was initiated.  
 6 Q Conversations about David Corneal's property?  
 7 A Yes, I'm sure I've done that.  
 8 Q Were these conversations to just discuss David  
 9 Corneal or was it to just get his advice on how the board  
 10 should proceed with regard to David Corneal?  
 11 A To get his advice.  
 12 Q What advice specifically did the board need to  
 13 proceed?  
 14 A Before or after the lawsuit?  
 15 Q Before.  
 16 A I don't know. I can't give you a specific  
 17 before.  
 18 Q Well, you testified that you're certain you  
 19 had conversations with Larry Newton regarding advice the  
 20 board needed to proceed with regard to Mr. Corneal and what  
 21 he wanted to do with his property. Am I misstating your  
 22 testimony?  
 23 A No, I did say that, but I can't give you a  
 24 specific -- I can't tell you specifically what I would have  
 25 talked to him about.

228

1 Q When David Corneal came to the board meeting  
 2 and said it was illegal to have a moratorium, did you ask  
 3 Larry Newton about that?  
 4 A I probably did or somebody did.  
 5 Q Are you sure of that?  
 6 A No, I'm not sure.  
 7 Q Did you yourself ask him that?  
 8 A I don't remember.  
 9 Q There's a pretty specific chronology of events  
 10 that went on in this matter before the lawsuit was  
 11 initiated. There was the research for the ordinance and  
 12 then you imposed the moratorium. When I say you, I mean the  
 13 board. Then Mr. Corneal came on the scene and requested his  
 14 first subdivision plan to be approved.  
 15 You don't recall at any point during this  
 16 whether it was when he asked for his first subdivision plan  
 17 or his sewer module or his privy permit or his first  
 18 building permit, building application, or his second  
 19 building permit, whether or not you or any board member  
 20 sought the advice of Larry Newton?  
 21 A I'm -- you asked me to be specific and I can't  
 22 be specific. I don't remember.  
 23 Q Well, when I ask you a specific question, you  
 24 first tell me that you don't think you did and then I ask  
 25 you another question and you tell me you're certain that you

229

1 had contact with Larry Newton. All I'm trying to find out  
 2 here, and I'm trying not to be confrontational, is when did  
 3 you talk to Larry Newton? When did you specifically talk to  
 4 Larry Newton?  
 5 A I don't remember.  
 6 Q Did any of the supervisors ever come to you  
 7 and say, hey, we need to find out whether or not we can do  
 8 this?  
 9 A I don't remember.  
 10 Q Not on any of this information?  
 11 A I remember talking to Larry, but I do not  
 12 specifically -- I can't give you specifics on this. I  
 13 can't.  
 14 Q How often does the board seek the advice of  
 15 Larry Newton?  
 16 A Under normal circumstances?  
 17 Q Under any other circumstance than the Corneal  
 18 circumstance.  
 19 A Not very often.  
 20 Q When would be a situation where they would  
 21 need to consult with Larry Newton?  
 22 A If we were going to do an ordinance. And we  
 23 had a problem with our one road, Miller Road is -- to be  
 24 specific, where the contractor came in and the road failed.  
 25 So we made -- we had to get after him and we filed a suit

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1 **against him to come back and redo the road, which he did.**  
 2 Q Did you ever consult with Larry Newton  
 3 regarding any other person who submitted a subdivision plan?  
 4 A **Not to the best of my knowledge.**  
 5 Q So David Corneal is the only person who  
 6 submitted a subdivision plan where you needed the advice and  
 7 guidance of Larry Newton?  
 8 A **In the short period that I've been there, yes.**  
 9 Q But you don't recall what any of that advice  
 10 was that you needed?  
 11 A **Advice?**  
 12 Q Yes.  
 13 A **You're talking about before the lawsuit?**  
 14 Q Yes, specifically I'd like to focus on before  
 15 the lawsuit at this point.  
 16 A **I have no idea what we talked to him about.**  
 17 MS. YANKANICH: Give me a second here. I'll  
 18 look through my notes.  
 19 (Pause.)  
 20 BY MS. YANKANICH:  
 21 Q When there was going to be an advertisement  
 22 for a meeting of the board, how was it determined whether or  
 23 not you would submit the notice, the advertisement, or Larry  
 24 Newton would submit the advertisement?  
 25 A **You have to be specific.**

231

1 Q Okay, if it is a -- if it was a regular  
 2 meeting of the board in January, would you advertise when  
 3 the meetings were going to be held?  
 4 A **I did that.**  
 5 Q If it was going to be a special meeting of the  
 6 board, how was it determined whether or not you or Larry  
 7 Newton would notify the public of that meeting?  
 8 A **The only time Larry would ever advertise was**  
 9 **for an ordinance or something. I did everything else.**  
 10 Q You stated earlier that Larry Newton is not  
 11 present at the township supervisor meetings; is that  
 12 correct?  
 13 A **I said unless we request him.**  
 14 Q Unless you requested him to be there; is that  
 15 correct?  
 16 A **That's right.**  
 17 Q Did you ever request him to be there with  
 18 regard to the David Corneal matter?  
 19 A **No.**  
 20 Q Do you know why any of the supervisors did not  
 21 impose the moratorium prior to January 2000?  
 22 A **You'll have to ask them that.**  
 23 Q Do you know if it was Larry Newton who  
 24 suggested that they do that in January 2000?  
 25 A **I have no idea.**

232

1 Q Did you talk with Larry Newton about whether  
 2 or not a moratorium should be imposed in January 2000?  
 3 A **I think I've testified to that a couple times**  
 4 **today. I don't recall.**  
 5 Q You testified earlier that you know of two  
 6 specific conversations you had with Larry Newton, one was a  
 7 conference call with the other supervisors present after the  
 8 lawsuit was initiated and the first was a telephone call  
 9 that you had with Larry Newton. Do you recall when that  
 10 contact occurred?  
 11 A **July 4th.**  
 12 Q What was the substance of that conversation?  
 13 A **He called me to tell me he had been served**  
 14 **with a lawsuit.**  
 15 Q Larry Newton called you?  
 16 A **Yes.**  
 17 Q What was the time of that conversation?  
 18 A **I have no idea. Sometime during the day.**  
 19 Q Did you make any notes of when -- of telephone  
 20 calls?  
 21 A **No, this was on the 4th of July or 3rd of July**  
 22 **or something and I was at home. I was not in my office when**  
 23 **I got the phone call.**  
 24 Q Do you typically make any telephones notes  
 25 when you receive a telephone call regarding township

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1 business?  
 2 A **No, I do not.**  
 3 Q If you were sitting in your office right now,  
 4 is there anything that you would reference that could get me  
 5 the information to exactly what time and when this  
 6 conversation occurred?  
 7 A **No.**  
 8 Q No memos from the conversation?  
 9 A **No.**  
 10 Q You also stated previously that Jim Himes  
 11 would give information to Larry Newton and then Larry Newton  
 12 would call and I believe you said he would call you or the  
 13 supervisors; is that correct --  
 14 A **Yes.**  
 15 Q -- regarding the David Corneal matter?  
 16 A **Yes.**  
 17 Q Did he typically call you?  
 18 A **Sometimes. Sometimes he calls one of the**  
 19 **supervisors.**  
 20 Q What would he call you and discuss?  
 21 A **Whatever is going on.**  
 22 Q What kind of information was he getting from  
 23 Jim Himes?  
 24 A **I don't think he was getting information. He**  
 25 **was -- Mr. Corneal was asking Jim Himes for -- it's in one**

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1 of these memos here, some kind of information. You know, I  
2 don't know if that was -- I don't know. It's in these  
3 papers.  
4 Q Was Larry Newton calling you to tell you to  
5 provide that information to Mr. Corneal?  
6 A I don't remember.  
7 Q Do you remember what information Mr. Corneal  
8 was seeking through Jim Himes?  
9 A At one time I think he wanted a draft copy of  
10 the ordinance.  
11 Q So when Larry Newton instigated the phone call  
12 to you or one of the supervisors, you don't recall what he  
13 said?  
14 A No.  
15 Q Do you recall ever being directed by Larry  
16 Newton to give a draft ordinance to Mr. Corneal?  
17 A No, I do not recall.  
18 Q Do you recall any of the telephone  
19 conversations you had with Larry Newton prior to the  
20 lawsuit?  
21 A No.  
22 Q Do you recall any other meetings that you had,  
23 conference, meetings or otherwise, with the supervisors,  
24 yourself and Larry Newton?  
25 A Prior to the lawsuit?

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1 the Corneal property?  
2 A I don't know specifics. I just -- I would --  
3 when I get a piece of information, I forward it to everybody  
4 that needs it, that's what I do, and I can't tell you  
5 specifics. It's probably half the documents in here.  
6 Q Are you talking now after the litigation, once  
7 you got a document in you would talk about it with Larry  
8 Newton or are you talking about before?  
9 A I'm talking about now with the litigation.  
10 Q After the litigation. You said that you  
11 discussed the -- or I'm sorry, the supervisors discussed the  
12 driveway ordinance with Larry Newton; is that correct?  
13 A I believe they did.  
14 Q Do you recall any of the specifics of that  
15 conversation?  
16 A (Witness shook her head negatively.)  
17 Q How about did they discuss the privy ordinance  
18 with Larry Newton?  
19 A I'm sure it was discussed with Larry.  
20 Q Do you recall any of the specifics?  
21 A No.  
22 Q Do you recall whether or not they were asking  
23 him whether they could pass such ordinances?  
24 A I do not.  
25 Q Is it customary to always seek Larry Newton's

235

1 Q Prior to the lawsuit.  
2 A No, I do not.  
3 Q You mentioned earlier that you have knowledge  
4 of a sewage act, I believe you said it was, where if two  
5 dwellings are on the same property it's considered an  
6 equivalent subdivision; is that correct?  
7 A That's right.  
8 Q Do you have that -- is that your own  
9 independent knowledge or did you get that advice from Larry  
10 Newton?  
11 A I didn't get that advice from Larry Newton.  
12 Q That's your own independent knowledge?  
13 A Yes.  
14 Q You said that you kept Larry Newton informed  
15 of what was happening with the Corneal property. Was it  
16 primarily you who kept him informed?  
17 A I can't testify as to whether the supervisors  
18 talked to Larry or not.  
19 Q I'm asking you whether or not you kept him  
20 informed of what was happening with the Corneal property.  
21 A I probably did.  
22 Q When you say probably, are you certain that  
23 you did?  
24 A Of some things I'm sure I did.  
25 Q Now, what specifically did you tell him about

237

1 advice before the board acts?  
2 A No.  
3 Q Is it rare that you would seek Larry Newton's  
4 advice before the board acts?  
5 A I wouldn't say it's rare.  
6 Q How often do you seek Larry Newton's advice?  
7 A Only when we have a problem.  
8 Q Is David Corneal the only problem this  
9 township has seen in a long time?  
10 A No. No, I just told you about the road.  
11 Q So other than the road, have you ever sought  
12 Larry Newton's advice on any other resident of Jackson  
13 Township?  
14 A Residence?  
15 Q Resident of Jackson Township.  
16 A I can't recall.  
17 Q I just want to go back a little bit over your  
18 testimony that I think we weren't real clear on. At first I  
19 believe your testimony was Larry Newton did not advise the  
20 supervisors to initiate a lawsuit against Mr. Corneal. What  
21 is your testimony with regard to who advised the supervisors  
22 to initiate the lawsuit, if anyone did?  
23 A I don't remember saying that.  
24 Q With regard to the lawsuit that was initiated  
25 against Mr. Corneal by the township, did anybody advise the

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1 supervisors to your knowledge to initiate that lawsuit?  
 2 **A I do not know how that happened. I can't**  
 3 **testify to that. I don't know who did that.**  
 4 **Q** Were you ever present at a meeting where Larry  
 5 Newton and any of the supervisors were present where Larry  
 6 Newton gave that kind of advice?  
 7 **A I don't recall.**  
 8 **Q** You don't recall a meeting where that happened  
 9 or that happening?  
 10 **A Please repeat your question for me.**  
 11 **Q** Okay. Were you ever present at a meeting  
 12 where Larry Newton met with any of the supervisors and  
 13 advised them to initiate a lawsuit against Mr. Corneal?  
 14 **A I do not recall that.**  
 15 **Q** Are you telling me you don't recall being at a  
 16 meeting or that there wasn't -- what are you telling me you  
 17 don't recall?  
 18 **A I don't recall Larry advising us to issue --**  
 19 **Q Start this lawsuit?**  
 20 **A Start a lawsuit.**  
 21 **Q** You don't recall him telling you to do that?  
 22 **A I don't know how that happened.**  
 23 **Q** But you're telling me you don't recall Larry  
 24 Newton telling the township to do that?  
 25 **A No.**

239

1 **Q** Do you recall any of the supervisors saying  
 2 they needed to seek the advice of Larry Newton before they  
 3 initiated this lawsuit?  
 4 **A You'll have to ask them that.**  
 5 **Q** You were never present when any of the  
 6 supervisors stated that?  
 7 **A I don't recall.**  
 8 **Q** Did you ever discuss this -- the possibility  
 9 of a lawsuit against David Corneal with any of the  
 10 supervisors prior to the lawsuit being initiated?  
 11 **A This lawsuit?**  
 12 **Q** No, the first lawsuit where the township is  
 13 suing Mr. Corneal. Did you ever talk to any of the  
 14 supervisors before it was initiated?  
 15 **A That's not the first lawsuit.**  
 16 **Q** What was the first lawsuit?  
 17 **A This is the first lawsuit.**  
 18 **Q** I'm sorry, let me clarify. Did you ever talk  
 19 to any of the supervisors directly about Mr. Corneal before  
 20 they initiated a lawsuit against him for a violation of the  
 21 building permit ordinance?  
 22 **A Did I do that?**  
 23 **Q** Did you ever talk with the supervisors before  
 24 they started the lawsuit?  
 25 **A I'm sure we talked about it.**

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1 **Q** Did they ask you whether or not they should do  
 2 that?  
 3 **A They wouldn't ask my advice.**  
 4 **Q** They just talk with you about it?  
 5 **A Yes.**  
 6 **Q** Well, if I may ask, why is it that the  
 7 supervisors consult with you when they don't take your  
 8 advice and they -- and you work for them?  
 9 **MR. SHERR: Objection. You're asking her for**  
 10 **somebody else's state of mind.**  
 11 **BY MS. YANKANICH:**  
 12 **Q** Do you have an opinion as to why they seek  
 13 your advice?  
 14 **A No.**  
 15 **Q** I apologize, I don't think I've asked you this  
 16 question. Did you yourself ever discuss directly with Larry  
 17 Newton the township's lawsuit against Mr. Corneal?  
 18 **A Did I talk to Larry about it?**  
 19 **Q Yes.**  
 20 **A With the supervisors, without the supervisors**  
 21 **or what?**  
 22 **Q Either one.**  
 23 **A I'm sure we have.**  
 24 **Q** Do you recall any of the specifics of those  
 25 conversations?

241

1 **A No, I do not.**  
 2 **Q** Do you recall of whether you had such a  
 3 meeting?  
 4 **A You asked me if I had a conversation.**  
 5 **Q** Okay, I'm sorry. I apologize. Did you ever  
 6 -- do you recall whether a conversation like that did  
 7 happen?  
 8 **A Yes.**  
 9 **Q** Was it with you and Mr. Newton or with you and  
 10 Mr. Newton and the supervisors?  
 11 **A I'm sure it was with all of us.**  
 12 **Q** And that was after the township sued Mr.  
 13 Corneal?  
 14 **A I don't think that's what you asked me.**  
 15 **Q** That's what I asked you the first time. I'm  
 16 asking you whether you had -- let me just restate the  
 17 question.  
 18 **A Okay.**  
 19 **Q** Did you yourself discuss with Larry Newton  
 20 directly, either in a meeting or a phone call, the lawsuit  
 21 that the township initiated against Mr. Corneal?  
 22 **A I have talked to Larry about it.**  
 23 **Q** Do you recall any of the specifics of those  
 24 conversations?  
 25 **A No, I do not.**



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1 Q Do you recall whether that was a telephone  
2 call or a meeting?  
3 A **I do not.**  
4 Q Do you recall whether any of the supervisors  
5 were present?  
6 A **I don't -- I don't recall.**  
7 Q With reference to Exhibit 14, if you would --  
8 I would actually like you to reference the specific exhibit,  
9 if I may. I just have a question as to whose notation that  
10 is. I didn't hear if Miss Montgomery asked you this. With  
11 regard to Exhibit 14, is that your handwriting that says --  
12 A **No.**  
13 Q -- copy sent to Newton?  
14 A **No, it is not.**  
15 Q Do you know whose handwriting that is?  
16 A **I have no idea.**  
17 Q When Mr. Van Dommelen -- let's specifically  
18 reference Exhibit 15. I'm going to show you Exhibit 15. If  
19 you would refer to Exhibit 15 during your answer, please.  
20 In this letter from David Corneal to Mr. Van Dommelen he  
21 states that Mr. Van Dommelen refused to give him a building  
22 permit application and that he did so on the advice of the  
23 supervisors.  
24 Do you recall -- were you present at any time  
25 when the supervisors called Larry Newton? Let me rephrase

243

1 that. Do you know if the supervisors ever consulted Larry  
2 Newton with regard to whether or not they should advise Mr.  
3 Van Dommelen to not issue such an application?  
4 A **I don't know.**  
5 Q You don't know if they ever called Larry  
6 Newton to ask him that?  
7 A **I don't know.**  
8 Q Were you aware that Mr. Van Dommelen refused  
9 to give Mr. Corneal an application?  
10 A **I think I've already testified to that.**  
11 Q I'm sorry, what was your answer?  
12 A **Yes.**  
13 Q You were aware that -- you knew he refused to  
14 do so?  
15 MR. SHERR: You don't have to repeat it  
16 again. She said yes. Let's move on, please.  
17 MS. YANKANICH: I'm just trying to clarify for  
18 myself.  
19 BY MS. YANKANICH:  
20 Q You were aware that he was refused an  
21 application, is that your answer?  
22 A **It was in the paperwork here, yes.**  
23 Q That's when you became aware of it. Is there  
24 any other time prior to the initiation of the lawsuit that  
25 you can remember seeking the advice of Larry Newton for any

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1 reason with regard to Mr. Corneal's property that I haven't  
2 asked you about?  
3 A **You're going to have to tell me that one**  
4 **again.**  
5 Q Do you recall any other time that you sought  
6 the advice of Larry Newton with regard to David Corneal's  
7 property that I may not have asked you about?  
8 A **No.**  
9 MS. YANKANICH: Thank you. I have no further  
10 questions.  
11 MS. THORP: No questions.  
12 MR. SHERR: Anything else?  
13 MS. MONTGOMERY: I just have a follow-up or  
14 two. Do you have anything?  
15 MR. SHERR: No.  
16

# REDIRECT EXAMINATION

17  
18  
19 BY MS. MONTGOMERY:  
20 Q Just generally, you were asked a series of  
21 questions by Mr. Newton's counsel about whether or not when  
22 you spoke with Larry Newton you were seeking his advice,  
23 okay, and I want to just ask a general question.  
24 Typically when you speak to Larry Newton are  
25 you speaking to him just as a friend or is it on township

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1 business? Do you speak to him on township business or are  
2 you speaking to him just as a friend or are you speaking to  
3 him as the township's counsel?  
4 A **As the township's counsel.**  
5 Q Do you expect then that if there is anything  
6 that you are telling him that he ought to have advice on and  
7 he'll give you that advice? Is that your expectation when  
8 you talk to him?  
9 A **I would assume.**  
10 Q You would assume that he would give you advice  
11 if anything you tell him raises any concerns with him; is  
12 that your testimony?  
13 A **Yes.**  
14 Q You know, you had mentioned earlier that you  
15 lived in Camp Hill prior to what, 11 years ago?  
16 A **Yes.**  
17 Q And did you work here?  
18 A **I'm retired from the state.**  
19 Q What did you do at the state?  
20 A **I was the cash desk for the Treasury**  
21 **Department for 25 years.**  
22 Q Have you ever had any conversations with Larry  
23 -- with an attorney who shares Mr. Newton's law offices?  
24 A **No.**  
25 Q Do you know who Mr. Reeder is?



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1 A I know his name. I don't know who he is.  
2 Q You've never met him?  
3 A No.  
4 Q You never talked to him?  
5 A No.  
6 Q You never corresponded with him?  
7 A No.  
8 Q Now that the township has these ordinances --  
9 well, now, let me back up a second. The township has five  
10 ordinances, I believe you said, right?  
11 A Four.  
12 Q Four?  
13 A I think it's four.  
14 MR. SHERR: You mentioned five.  
15 BY MS. MONTGOMERY:  
16 Q I think you mentioned five.  
17 A Five, okay.  
18 Q And you say you keep them in your office, you  
19 keep a copy of each of them in your office?  
20 A Yes, they're in my office.  
21 Q Where do you keep them?  
22 A The subdivision ordinance is in a binder,  
23 which I told you earlier, along with the privy and the  
24 driveway ordinance. The building permit ordinance is in an  
25 ordinance file.

247

1 Q What's an ordinance file?  
2 A It's just a file that says ordinance.  
3 Q It's like a collapsible folder or something?  
4 A It's just a manila folder.  
5 Q A manila folder that says ordinance. And the  
6 fifth ordinance?  
7 A I'm so confused here. There's a subdivision  
8 ordinance, a driveway ordinance, a privy ordinance and a  
9 building permit ordinance.  
10 MR. CORNEAL: Agriculture.  
11 THE WITNESS: Oh, I'm sorry. Thank you,  
12 agriculture security. That's in a separate folder because  
13 that's a whole other issue.  
14 BY MS. MONTGOMERY:  
15 Q Is it in a manila folder also?  
16 A Yes.  
17 Q Do you keep an ordinance book, like one book  
18 of all the ordinances?  
19 A No.  
20 Q I'm going to show you a document that we're  
21 going to mark as Wirth 16 and this is a January 31, 2000  
22 letter from David Corneal addressed to Mr. Newton.  
23 (Letter dated 1/31/00 produced and marked as  
24 Wirth Exhibit No. 16.)  
25 (Discussion held off the record.)

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1 BY MS. MONTGOMERY:  
2 Q Did you have a chance to look at that letter?  
3 A Yes, I did.  
4 Q Have you seen the letter before?  
5 A I don't recall if I've seen it before or not.  
6 Q Do you know whether you were given a copy of  
7 the letter at the time that it was written, which I think  
8 the date of it is January 31st, 2000?  
9 A I just said I don't recall if I've ever seen  
10 the letter before.  
11 Q Do you recall ever discussing with Mr. Newton  
12 his receipt of that letter from Mr. Corneal?  
13 A I don't recall that.  
14 Q Well, look at the contents of the letter  
15 then. Now that you've had a chance to look at this letter  
16 from David Corneal to Mr. Newton, do you recall ever talking  
17 to Mr. Newton about the particular issues in this letter?  
18 And we'll start at the beginning, the approval of his  
19 subdivision.  
20 A I don't recall.  
21 Q What about -- do you know whether or not Mr.  
22 Simpson dropped off a copy of the plan at Mr. Newton's  
23 office?  
24 A I believe I testified earlier I don't know how  
25 that happened.

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1 Q And in this letter Mr. Corneal tells Mr.  
2 Newton that there is urgency of approval, in that the  
3 Hewetts have a loan commitment for settlement at the end of  
4 February. Do you recall whether or not Mr. Newton called  
5 the township offices to discuss any sort of urgency of  
6 approval of Mr. Corneal's subdivision?  
7 A I don't recall that.  
8 Q Do you know whether the supervisors got a copy  
9 of this letter?  
10 A You'll have to ask them.  
11 Q I'm going to show you one other letter then  
12 and we're going to mark it as Wirth 17.  
13 (Letter dated 7/28/00 produced and marked as  
14 Wirth Exhibit No. 17.)  
15 BY MS. MONTGOMERY:  
16 Q Have you seen this letter before?  
17 A Yes, I have.  
18 Q When did you see it?  
19 A I don't know, but I've seen it.  
20 Q Do you see where it says Jackson Township  
21 Board of Supervisors down there in the cc line?  
22 A Right.  
23 Q Did the letter come to you?  
24 A I would assume it did. I don't know for sure.  
25 Q Do you have a copy of this letter in your

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<p style="text-align: right;">250</p> <p>1 files?</p> <p>2 A Yes, I've seen this letter in my files.</p> <p>3 Q Did you produce it to us?</p> <p>4 A I don't know whether I did or not.</p> <p>5 Q Now that you're looking at these two letters,</p> <p>6 the letter to Mr. Newton from Mr. Corneal in January 2000</p> <p>7 and the letter from Mr. Newton to the Corneals on July 28,</p> <p>8 2000, do you recall whether or not you spoke with Mr. Newton</p> <p>9 in between -- in that time frame, from January to July, to</p> <p>10 seek advice about how the Corneals were dealing with their</p> <p>11 property or about how to deal with the Corneals in</p> <p>12 connection with their property? Does that help you</p> <p>13 remember?</p> <p>14 A What?</p> <p>15 Q I'm trying to get you down to a time frame</p> <p>16 about when you spoke to Mr. Newton. Mr. Newton's counsel</p> <p>17 was trying to talk to you about whether you spoke to him</p> <p>18 prior to the initiation of this lawsuit.</p> <p>19 A I'm sure I -- I'm sure I testified that we</p> <p>20 have talked, but I don't know when or what about.</p> <p>21 Q You testified that you're sure you talked to</p> <p>22 Mr. Newton about the Corneals prior to the lawsuit; is that</p> <p>23 correct?</p> <p>24 A I believe I said that earlier.</p> <p>25 Q Do these letters -- reviewing these letters</p>	<p style="text-align: right;">252</p> <p>1 and this is addressed to Mr. Newton's counsel. Do you</p> <p>2 consider Mr. Newton to be under the sequestration order that</p> <p>3 the judge entered for purposes of talking to the other</p> <p>4 defendants about the substance of the depositions?</p> <p>5 MS. YANKANICH: Let me review the order and</p> <p>6 then I'll get you an answer. Can we go off the record</p> <p>7 briefly?</p> <p>8 MS. MONTGOMERY: Sure.</p> <p>9 (Discussion held off the record.)</p> <p>10 (The deposition was concluded at 4:27 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">251</p> <p>1 help you remember at all when you might have spoken to Mr.</p> <p>2 Corneal about the Corneal -- I'm sorry, to Mr. Newton about</p> <p>3 the Corneal's property?</p> <p>4 A No, it doesn't.</p> <p>5 MS. MONTGOMERY: I don't have any other</p> <p>6 questions.</p> <p>7 MS. YANKANICH: I have one last question.</p> <p>8 It's just a bookkeeping matter.</p> <p>9</p> <p>10 RECROSS-EXAMINATION</p> <p>11</p> <p>12 BY MS. YANKANICH:</p> <p>13 Q With reference to Exhibit 15 on page 2 -- or</p> <p>14 actually maybe it's Exhibit 14. Let me look. Yes, Exhibit</p> <p>15 14. I'd asked you on the first page of Exhibit 14 whether</p> <p>16 or not the handwritten message that says copy sent to Newton</p> <p>17 was your signature and you stated that it was not; is that</p> <p>18 correct?</p> <p>19 A No, I didn't write that.</p> <p>20 Q On the second page of Exhibit 14 is copy sent</p> <p>21 to Newton your signature -- your handwriting?</p> <p>22 A No.</p> <p>23 MS. YANKANICH: Thank you. I have no further</p> <p>24 questions.</p> <p>25 MS. MONTGOMERY: Another housekeeping matter,</p>	<p style="text-align: right;">253</p> <p>1</p> <p>2 COUNTY OF DAUPHIN : : SS</p> <p>3 COMMONWEALTH OF PENNSYLVANIA : 4 I, Teresa K. Bear, Reporter-Notary Public, 5 authorized to administer oaths within and for the 6 Commonwealth of Pennsylvania and take depositions in the 7 trial of causes, do hereby certify that the foregoing is the 8 testimony of ANN WIRTH.</p> <p>9 I further certify that before the taking of</p> <p>10 said deposition, the witness was duly sworn; that the</p> <p>11 questions and answers were taken down stenographically by</p> <p>12 the said Teresa K. Bear, a Reporter-Notary Public, approved</p> <p>13 and agreed to, and afterwards reduced to typewriting under</p> <p>14 the direction of the said Reporter.</p> <p>15 I further certify that the proceedings and</p> <p>16 evidence are contained fully and accurately to the best of</p> <p>17 my ability in the notes taken by me on the within</p> <p>18 deposition, and that this copy is a correct transcript of</p> <p>19 the same.</p> <p>20 In testimony whereof, I have hereunto</p> <p>21 subscribed my hand this 31st day of May, 2001.</p> <p>22</p> <p>23</p> <p>24 _____ Teresa K. Bear, Reporter Notary Public My commission expires on April 13, 2003</p> <p>25</p>

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DEFENDANT  
EXHIBIT

1                                   IN THE UNITED STATES DISTRICT COURT  
2                                   FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
3       DAVID B. CORNEAL and SANDRA :  
4       Y. CORNEAL, :  
5       PLAINTIFFS :  
6                                   VS : NO. 1:CV-00-1192  
7       JACKSON TOWNSHIP, HUNTINGDON :  
8       COUNTY, PENNSYLVANIA; W. :  
9       THOMAS WILSON, individually :  
10      and in his official capacity :  
11      as Supervisor of Jackson :  
12      Township; MICHAEL YODER, :  
13      individually and in his :  
14      official capacity as :  
15      Supervisor of Jackson :  
16      Township; RALPH WEILER, :  
17      individually and in his :  
18      official capacity as :  
19      Supervisor of Jackson :  
20      Township; BARRY PARKS, :  
21      individually and in his :  
22      official capacity as Sewage :  
23      Enforcement Officer of :  
24      Jackson Township; DAVID :  
25      VAN DOMMELEN, individually :  
26      and in his official capacity :  
27      as Building Permit Officer; :  
28      ANN L. WIRTH, individually :  
29      and in her official capacity :  
30      as Secretary of Jackson :  
31      Township; and LARRY NEWTON, :  
32      individually and in his :  
33      official capacity as :  
34      Solicitor to Jackson :  
35      Township, :  
36                                   DEFENDANTS :  
37                                   DEPOSITION OF: LAWRENCE L. NEWTON  
38                                   TAKEN BY: PLAINTIFFS  
39                                   BEFORE: TERESA K. BEAR, REPORTER  
40   NOTARY PUBLIC  
41                                   DATE: JUNE 12, 2001, 9:42 A.M.  
42                                   PLACE: ECKERT SEAMANS  
43   213 MARKET STREET  
44   HARRISBURG, PENNSYLVANIA

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2

1 APPEARANCES:  
 2 ECKERT SEAMANS  
 3 BY: BRIDGET E. MONTGOMERY, ESQUIRE  
 4 LESLIE A. MALADY, ESQUIRE  
 5 FOR - PLAINTIFFS  
 6 MAYERS, MENNIES & SHERR, LLP  
 7 BY: ANTHONY R. SHERR, ESQUIRE  
 8  
 9 FOR - ALL DEFENDANTS EXCEPT NEWTON  
 10  
 11 THOMAS, THOMAS & HAER  
 12 BY: MICHELE J. THORP, ESQUIRE  
 13 FOR - DEFENDANT - RALPH WEILER  
 14 METTE, EVANS & WOODSIDE  
 15 BY: KATHRYN LEASE SIMPSON, ESQUIRE  
 16  
 17 FOR - DEFENDANT - LARRY NEWTON  
 18  
 19 ALSO PRESENT:  
 20  
 21 DAVID B. CORNEAL  
 22  
 23  
 24  
 25

4

1 LAWRENCE L. NEWTON, called as a witness, being  
 2 sworn, testified as follows:  
 3  
 4 DIRECT EXAMINATION  
 5  
 6 BY MS. MONTGOMERY:  
 7 Q Mr. Newton, we've just met, but for the record  
 8 I'll identify myself. My name is Bridget Montgomery and I  
 9 represent the Corneals in this litigation. Would you just  
 10 state your name for the record.  
 11 A **Lawrence, L-a-w-r-e-n-c-e, middle initial L.,**  
 12 **Newton, N-e-w-t-o-n.**  
 13 Q Where do you live, Mr. Newton?  
 14 A **I live at 2111 Moore Street, Huntingdon,**  
 15 **Pennsylvania.**  
 16 Q How long have you lived there?  
 17 A **Since July of 1981.**  
 18 Q Are you a native of Huntingdon?  
 19 A **No, I'm not.**  
 20 Q Where are you a native of?  
 21 A **I grew up in Latrobe, Pennsylvania.**  
 22 Q What county is that?  
 23 A **Westmoreland.**  
 24 Q Out in the western part of the state?  
 25 A **Yes.**

3

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 3 FOR PLAINTIFFS DIRECT  
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 6  
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 25

5

1 Q And what is your current occupation?  
 2 A **I'm an attorney.**  
 3 Q Are you in private practice?  
 4 A **Yes, I am.**  
 5 Q And what is the business address of your law  
 6 practice?  
 7 A **504 Penn Street, Huntingdon, Pennsylvania.**  
 8 Q Even though you are an attorney, I was going  
 9 to dispense with all of these instructions, but I think  
 10 we're going to need to go through them. Have you ever been  
 11 deposed before?  
 12 A **No, I haven't.**  
 13 Q Okay. You know the general instructions?  
 14 A **Yes.**  
 15 Q First of all, that you really need to let me  
 16 finish my question and I'll try to let you finish your  
 17 answer so that we're not talking over each other, just for  
 18 the benefit of the court reporter.  
 19 I'll give you an instruction that I need to  
 20 mind myself. We need to talk slow enough for the court  
 21 reporter to take us down. I tend to go too fast and Michele  
 22 was good about reminding me that I'm going too fast. So is  
 23 there any reason why you can't give your deposition today?  
 24 A **None whatsoever.**  
 25 Q You're not on any sort of medication or

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6

1 anything that would prevent you from understanding my  
 2 questions and giving answers?  
 3 A No.  
 4 Q Obviously if you need to take a break for your  
 5 own comfort or convenience, you can do that. There's water  
 6 here if you need it, coffee, whatever you'd like.  
 7 Now, we'll go back to your employment. I  
 8 think you just gave us your business address, correct?  
 9 A That's correct.  
 10 Q Are you in practice alone?  
 11 A Yes.  
 12 Q Do you occupy that space alone?  
 13 A No.  
 14 Q Who occupies the space with you?  
 15 A There's another attorney, Harvey B. Reeder,  
 16 and a psychologist, Lynn E. Kagarise.  
 17 Q Do you have -- what is it, a three office  
 18 space or more?  
 19 A Well, we have -- we have more space. We have  
 20 a conference room downstairs. Mr. Reeder and I share part  
 21 of the second floor. We each have an office. There is a  
 22 library and another conference room. Mr. Kagarise is in the  
 23 second floor rear. There is an office that he has and  
 24 secretarial staff.  
 25 Q So you have your actual office space on the

7

1 second floor --  
 2 A Yes.  
 3 Q -- and your conference room is on the first  
 4 floor?  
 5 A Yes.  
 6 Q You said that Mr. Reeder and you share part of  
 7 the second floor?  
 8 A Yes.  
 9 Q You have separate offices but one secretary?  
 10 A No, we each have our own secretary and we  
 11 share a secretary.  
 12 Q I see. So you have three secretaries  
 13 altogether?  
 14 A Yes, one of whom I employ and one of whom we  
 15 share the cost of.  
 16 Q I see. And the other whom he employs himself?  
 17 A Yes.  
 18 Q Do you have any other office staff?  
 19 A No.  
 20 Q And you have a library?  
 21 A Yes.  
 22 Q A law library?  
 23 A (Witness nods head affirmatively.)  
 24 Q Do you share that with Mr. Reeder?  
 25 A Yes.

8

1 Q Any other shared space?  
 2 A No.  
 3 Q You both are able to use the conference room  
 4 or was it rooms -- room or rooms on the first floor?  
 5 A Room. There's a kitchen area in the back of  
 6 the first floor.  
 7 Q How long has Mr. Reeder shared this space with  
 8 you?  
 9 A We purchased the building approximately five  
 10 years ago. So at that location approximately five years.  
 11 Q Did you previously share office space with  
 12 him?  
 13 A Yes.  
 14 Q In another location?  
 15 A Yes.  
 16 Q Where was that?  
 17 A 331 Penn Street, Huntingdon.  
 18 Q Also in Huntingdon?  
 19 A Yes.  
 20 Q And how long did you share office space with  
 21 him there?  
 22 A Well, there was another -- at that time there  
 23 was another attorney that we practiced -- that I practiced  
 24 with by the name of Marshal B. DeForrest.  
 25 Q I'm sorry, I didn't hear that.

9

1 A Marshal B. DeForrest.  
 2 Q DeForrest?  
 3 A Yes. Mr. Reeder was sharing space at that  
 4 time as well.  
 5 Q I take it you're each sole practitioners?  
 6 A That's correct.  
 7 Q And Mr. DeForrest was a sole practitioner as  
 8 well?  
 9 A Yes, he was. Now, I helped him out. We were  
 10 sole practitioners, but he was -- he needed some help. He  
 11 was kind of phasing out of his practice and so I did various  
 12 tasks for him but we were never partners.  
 13 Q Do you have any sort of partnership or  
 14 corporate arrangement or anything like that with Mr. Reeder  
 15 at this time?  
 16 A I do not. I should say that we had a -- we  
 17 have a settlement company called Standing Stone Settlement  
 18 Company. We each are title agents for Old Republic. We do  
 19 not have a partnership regarding the settlement company. We  
 20 actually formed the settlement company because most title  
 21 carriers expected some minimum volume per year so we thought  
 22 if we combined and had a settlement company we could do this  
 23 together, but any settlement that I have through Standing  
 24 Stone is mine and any settlement he has is his.  
 25 Q Standing Stone is what?

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<p style="text-align: right;">10</p> <p>1 A It's a fictitious name.</p> <p>2 Q Oh, Standing Stone is the name of your</p> <p>3 title --</p> <p>4 A Standing Stone Settlement Company is a</p> <p>5 fictitious name, yes.</p> <p>6 Q And you said your title agent's through what?</p> <p>7 A Old Republic Title Company.</p> <p>8 Q Through Old Republic Title Company?</p> <p>9 A (Witness nods head affirmatively.)</p> <p>10 Q What about the real estate itself, do you own</p> <p>11 it or rent it?</p> <p>12 A We own it. We have a real estate partnership,</p> <p>13 Mr. Reeder and I and Mr. Kagarise, and then we each</p> <p>14 individually pay rent to the partnership.</p> <p>15 Q Understood. How long have you owned that</p> <p>16 building with Mr. Reeder?</p> <p>17 A Since approximately five years ago.</p> <p>18 Q Did you own the prior office?</p> <p>19 A I did not. I believe Mr. DeForrest owned the</p> <p>20 building and then for a period of time I think Mr. Reeder</p> <p>21 did, but I never had an ownership interest in 331 Penn</p> <p>22 Street.</p> <p>23 Q Do you have one telephone number or two</p> <p>24 telephone numbers or what at this office?</p> <p>25 A Actually we have three lines. Technically my</p>	<p style="text-align: right;">12</p> <p>1 Q Do you share clients at all? I mean, do you</p> <p>2 work on cases together or --</p> <p>3 A We've done that occasionally. Generally not.</p> <p>4 Q In terms of proximity, how close are your</p> <p>5 offices, yours and Mr. Reeder's?</p> <p>6 A Right across the hall.</p> <p>7 Q And your secretaries each sit outside your</p> <p>8 desks, your individual offices?</p> <p>9 A No, the secretaries are all downstairs.</p> <p>10 Q The secretaries are on a separate floor?</p> <p>11 A If you go in the front door, our secretaries</p> <p>12 are to the left and our receptionist is to the right.</p> <p>13 Q Tell me a little bit about your education,</p> <p>14 where did you do your undergraduate work?</p> <p>15 A Wittenberg University in Springfield, Ohio.</p> <p>16 Q And what about your law degree?</p> <p>17 A Case Western Reserve University in Cleveland,</p> <p>18 Ohio.</p> <p>19 Q Do you have any other degrees?</p> <p>20 A I do not.</p> <p>21 Q A JD is enough.</p> <p>22 A That's enough.</p> <p>23 Q Causes you enough problems in your life,</p> <p>24 right. Let's see, what about other types of certificates or</p> <p>25 anything like that? Do you have anything?</p>
<p style="text-align: right;">11</p> <p>1 number is 643-3820 and Mr. Reeder's number is 643-3821. You</p> <p>2 know, they both ring and our receptionist would answer</p> <p>3 either line.</p> <p>4 Q Is your receptionist your third shared</p> <p>5 secretary?</p> <p>6 A Yes.</p> <p>7 Q Is there a third number as well?</p> <p>8 A I don't believe so, no. There's just an extra</p> <p>9 line.</p> <p>10 Q There's just an extra line?</p> <p>11 A (Witness nods head affirmatively.)</p> <p>12 Q Is there one general number for the office or</p> <p>13 just those two numbers?</p> <p>14 A Those two numbers.</p> <p>15 Q What about your fax, do you share a fax?</p> <p>16 A We share a fax along with Mr. Kagarise. That</p> <p>17 number is 643-5670.</p> <p>18 Q I'm assuming you maintain malpractice</p> <p>19 insurance?</p> <p>20 A Yes.</p> <p>21 Q Do you maintain separate malpractice</p> <p>22 insurance?</p> <p>23 A Separate, yes.</p> <p>24 Q You each are under your own?</p> <p>25 A Um-hum.</p>	<p style="text-align: right;">13</p> <p>1 A I'm a title agent and that's all.</p> <p>2 Q You said that. How does one become a title</p> <p>3 agent, what do you do?</p> <p>4 A Apply through the title company.</p> <p>5 Q You apply directly to --</p> <p>6 A You're approved through your title company.</p> <p>7 Q There's no state requirement or anything like</p> <p>8 that?</p> <p>9 A There might be now. Not when I did it. When</p> <p>10 you are an attorney, you didn't have to take an exam and</p> <p>11 that type of thing and I'm not sure that's the case now.</p> <p>12 Q So you have a fictitious name for your</p> <p>13 settlement company?</p> <p>14 A Correct.</p> <p>15 Q Is it a corporation?</p> <p>16 A No.</p> <p>17 Q It's a partnership?</p> <p>18 A Technically, no, it's not.</p> <p>19 Q It's not registered in any way --</p> <p>20 A It's registered as a fictitious name.</p> <p>21 Q It's not registered as a partnership or</p> <p>22 corporate entity in any way?</p> <p>23 A It's not, no.</p> <p>24 Q Do you have some sort of insurance for that</p> <p>25 settlement company?</p>



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1 A We have to purchase through our professional  
 2 liability carrier additional coverage for that.  
 3 Q Do you each purchase that separately or do you  
 4 purchase it together or what?  
 5 A We purchase it separately through our own  
 6 policies. Now, the -- we have to have a fidelity bond  
 7 through Standing Stone as a requirement of -- I think  
 8 Pennsylvania licensing requirements.  
 9 Q So you have a fidelity bond in the name of  
 10 Standing Stone --  
 11 A Right.  
 12 Q -- which you two are the principals under  
 13 Standing Stone?  
 14 A Right.  
 15 Q But each of you through your own malpractice  
 16 insurance have additional insurance --  
 17 A Yes.  
 18 Q -- for your title agent work?  
 19 A For our title agent, right.  
 20 Q Is a settlement company the same as a title  
 21 agency?  
 22 A Similar, yes.  
 23 Q I don't know if I asked you this, and I  
 24 apologize if I did, when did you set up the title company,  
 25 the settlement company?

15

1 A Approximately three years ago.  
 2 Q So is it fair to say that a significant amount  
 3 of your practice involves real estate?  
 4 A I would say a fair portion of my practice  
 5 involves real estate, but much of that is not the title  
 6 agency.  
 7 Q What about Mr. Reeder's, do you know?  
 8 A I wouldn't know. He does -- I would say he  
 9 does a fair amount of title work and real estate work.  
 10 Q So you do some real estate settlement work and  
 11 title work, right?  
 12 A Yes.  
 13 Q And aside from that, what else, what other  
 14 kind of work do you do?  
 15 A Civil and criminal litigation, municipal work,  
 16 estates, that's about it.  
 17 Q Your municipal work, can you describe that for  
 18 me?  
 19 A I'm solicitor for several townships and  
 20 several boroughs.  
 21 Q And we all know that you are solicitor for  
 22 Jackson Township, correct?  
 23 A Correct.  
 24 Q In Huntingdon County. What other townships  
 25 and boroughs are you solicitor to?

16

1 A Let's see, townships, Dublin, Carbon.  
 2 Q Is Carbon in Centre County?  
 3 A No, it's in Huntingdon County. These would  
 4 all be in Huntingdon County. Hopewell, Todd, Porter, West.  
 5 I think that's it.  
 6 Q Thanks.  
 7 A For boroughs, Huntingdon, Coalmont and  
 8 Shirleysburg.  
 9 Q And those are all in Huntingdon as well?  
 10 A Yes.  
 11 Q So when did you become the solicitor for  
 12 Jackson Township?  
 13 A I don't know. I would say approximately 15  
 14 years ago.  
 15 Q A long time, okay. How did that come about?  
 16 A I received a telephone call from the then  
 17 township secretary whose name was Leroy Koch. He asked me  
 18 if I would be interested and I said yes.  
 19 Q And you serve at the pleasure of the township  
 20 supervisors, correct?  
 21 A I do.  
 22 Q Is it an annual contract or an annual  
 23 appointment or what?  
 24 A I think it's an annual appointment. We never  
 25 have a contract.

17

1 Q Is there a list of duties or anything that  
 2 came to you at any time in connection with your work for  
 3 Jackson Township?  
 4 A No.  
 5 Q Well, how did you come about to have an  
 6 understanding of what it is you're expected to do for them?  
 7 A Township code.  
 8 Q The township --  
 9 A Basically in Jackson Township, and as well as  
 10 in the other townships, I rarely attend meetings. I only  
 11 attend unless I'm requested -- if I'm requested to attend.  
 12 And there will be periods of time when really not too much  
 13 happens at all during the year and it's -- these are -- keep  
 14 in mind these are very rural townships and they basically  
 15 call as needed.  
 16 Q Understood. Are you on an hourly or on a  
 17 retainer or what --  
 18 A I --  
 19 Q -- with Jackson Township?  
 20 A I generally bill -- I generally bill these  
 21 townships at a discounted rate of \$60 an hour.  
 22 Q So you don't have some sort of retainer or a  
 23 minimum number of hours a year or something like that?  
 24 A No, there's no -- sometimes -- I don't know if  
 25 I've done this the last couple years with Jackson Township,

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1 but sometimes the retainer has been \$150 a year. You're  
2 smiling at me.  
3 Q With Jackson Township, typically how much work  
4 do you do for them a year?  
5 A You know, it varies. I think last year I  
6 probably billed them approximately a thousand dollars.  
7 There was more activity last year than in most years.  
8 Q Do you send them an invoice every month?  
9 A No.  
10 Q Just in months that you perform work?  
11 A Or I will not send an invoice until the job is  
12 done.  
13 Q I see. Do you send them any sort of periodic  
14 statement of account or anything like that?  
15 A No.  
16 Q So you say that last year there was more  
17 activity than usual?  
18 A Yes.  
19 Q Without going into anything that doesn't have  
20 to do with this lawsuit obviously, can you describe for me  
21 -- I should say can you tell me whether the additional  
22 activity is attributable to Mr. Corneal and his issues?  
23 A No, I would say not.  
24 Q No, okay.  
25 A Well, after the lawsuit, yes.

19

1 Q Right.  
2 A You know, we had -- you know, we had the  
3 subdivision ordinance that we were working on and that  
4 generates some additional time.  
5 Q You just spoke a moment ago about the  
6 subdivision ordinance. Do you recall the first time that  
7 the subdivision ordinance was presented or the idea of a  
8 subdivision ordinance in Jackson Township was presented to  
9 you?  
10 A I do not recall a specific date. It was -- it  
11 was under consideration for a long period of time, at least  
12 a year, probably more than a year.  
13 Q Prior to its actual passage?  
14 A Yes.  
15 Q In -- what was it, July 2000?  
16 A July 10th, yes.  
17 Q Were you involved in the drafting of the  
18 ordinance yourself?  
19 A Not -- I guess maybe indirectly. The  
20 supervisors had obtained a copy of a subdivision ordinance  
21 from Cambria County which was kind of the prototype that was  
22 used in Jackson. And what I did at least initially was  
23 loaded that into my computer and from there the township  
24 would cut, paste and get input from the planning commission,  
25 etcetera.

20

1 Q I see.  
2 A But I certainly didn't have any real  
3 draftsmanship with respect to the ordinance.  
4 Q You said it was under consideration you think  
5 for at least a year?  
6 A Yes.  
7 Q How do you know that? I mean, what is it that  
8 occurred that --  
9 A Well, I can -- you know, from the time that  
10 the supervisors got the Cambria County -- whatever township  
11 in Cambria County adopted the ordinance. I would say at  
12 least a year, maybe more.  
13 Q Do you know who brought the idea of a  
14 subdivision ordinance to the township officials?  
15 A I do not.  
16 Q Did they ever discuss with you why they  
17 thought they needed to do a subdivision ordinance?  
18 A Generally because Jackson borders Centre  
19 County and they wanted to be ready -- if there was going to  
20 be development in Jackson Township to be prepared for that  
21 development.  
22 Q Did they ask you for advice regarding whether  
23 or not it was appropriate for them to enact a subdivision  
24 ordinance or how to do it or anything like that?  
25 A Not directly. You know, subdivision

21

1 ordinances are -- and land development ordinances are a good  
2 idea generally. In our county right now the county planning  
3 commission is working on a prototype subdivision ordinance  
4 that perhaps will be adopted by most of the townships in the  
5 county.  
6 Q Let me ask you this: You said that they  
7 obtained a copy of the Cambria County subdivision ordinance?  
8 A It wasn't Cambria County. It was a township  
9 in Cambria County. I don't recall which township it was.  
10 Q That's fine. So they obtained a copy of  
11 that --  
12 A Yes.  
13 Q -- ordinance and they sent it to you you think  
14 maybe a year before the ordinance was actually passed?  
15 A Yes.  
16 Q What did you understand from them sending it  
17 to you that they were asking you to do in terms of advising  
18 them about the subdivision ordinance?  
19 A Well, to look at the ordinance and determine  
20 whether it would be appropriate for Jackson Township. It  
21 was a very comprehensive ordinance.  
22 Q Is it fair to say that when they sent you  
23 something that you took that as an indication that they were  
24 looking for your guidance or advice or comments?  
25 A I would say yes, yes.

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22

1 Q Now, you said that you didn't have much hand  
2 in drafting it. Were there a number of drafts, though, of  
3 this subdivision ordinance?  
4 A Yes, there were.  
5 Q About how many do you think?  
6 A Several.  
7 Q Who was doing the drafting to your knowledge?  
8 A Well, as I said to you, I loaded it into the  
9 computer and then I believe that the township got that on  
10 disk and --  
11 Q From your computer?  
12 A Right. And then through the various review  
13 processes, whether it be the county planning commission,  
14 public input, whatever, then I believe the township actually  
15 made the changes.  
16 Q Who at the township made them?  
17 A I assume it would have been Ann Wirth, the  
18 township secretary.  
19 Q You mentioned I think public comment or  
20 something just now. You said through the various changes.  
21 A Yes.  
22 Q What kind of public comment are you talking  
23 about?  
24 A Well, I -- you know, the township is required  
25 by statute to advertise and I know there was at least one

23

1 public meeting, which I didn't attend, but, you know, there  
2 were -- certainly residents of the township were interested  
3 in the ordinance.  
4 Q Was that public meeting the meeting at which  
5 they passed it?  
6 A No.  
7 Q What public meeting was that?  
8 A I know that there was a public meeting in  
9 January of 2000.  
10 Q Where they discussed the subdivision  
11 ordinance?  
12 A That was the purpose of the meeting. I wasn't  
13 there.  
14 Q What about the meeting in July 2000 when they  
15 passed the ordinance, were you there?  
16 A No.  
17 Q Did you know that they were going to pass the  
18 ordinance?  
19 A Yes, I did.  
20 Q Now, in the January 2000 meeting isn't it  
21 correct that they passed a moratorium -- or they attempted  
22 to pass a moratorium on subdivisions --  
23 A Yes.  
24 Q -- in Jackson Township?  
25 A Yes. I don't believe those meetings were the

24

1 same night, but I'm not positive.  
2 Q Oh, you think there was a separate meeting in  
3 January --  
4 A I think there might have been, right.  
5 Q In January when they discussed the township  
6 ordinance and when they passed the moratorium?  
7 A I'm really not sure if the meeting nights were  
8 the same.  
9 Q Under the township code requirements, they  
10 would have been required to advertise both of those  
11 meetings, correct?  
12 A They did.  
13 Q They did advertise both meetings if there --  
14 A Well, the -- Jackson meets the first Monday of  
15 the month and it's my understanding that there's one  
16 advertisement that's placed in the newspaper concerning when  
17 they meet for the whole year. If there is a special  
18 meeting, that would be advertised.  
19 Q So they advertise their monthly meeting every  
20 month; is that what you're saying?  
21 A No, that's not what I said.  
22 Q I'm sorry.  
23 A I believe they put one advertisement in the  
24 newspaper setting forth when they will meet throughout the  
25 year.

25

1 Q I understand.  
2 A I don't do that, but that's my understanding  
3 of what happens.  
4 Q Now, if they were going to do something other  
5 than just the ordinary meeting, something like pass a  
6 subdivision ordinance at a monthly meeting, would they then  
7 be required to put an ad in --  
8 A Yes.  
9 Q Just let me finish for the record. Put an ad  
10 in stating that that's what they were going to do?  
11 A Yes.  
12 Q And is that also true for the moratorium?  
13 A That I don't know.  
14 Q Let me ask you this: Did you know prior to  
15 the time they passed the moratorium or attempted to pass it  
16 in January 2000 that they were going to do so?  
17 A No.  
18 Q Did they seek your advice about doing so at  
19 any time?  
20 A I received a phone call from Ann Wirth asking  
21 me if it was permissible for a municipality to have a  
22 moratorium on subdivisions. My response was I think so.  
23 Q Did they ask you whether it was permissible to  
24 have a moratorium when there actually wasn't a subdivision  
25 ordinance in place? Did they ask you that specific

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1 question?  
 2 **A They did not.**  
 3 **Q They did not?**  
 4 **A No.**  
 5 **Q But at that time did you know that there**  
 6 **wasn't a subdivision ordinance in place?**  
 7 **A Yes, obviously we were working on one.**  
 8 **Q Did they follow up with you again after that**  
 9 **initial phone call from Ann Wirth about whether or not it**  
 10 **was appropriate to put a moratorium in place in that**  
 11 **situation?**  
 12 **A I became aware that the moratorium was in**  
 13 **place.**  
 14 **Q You became aware after it was done?**  
 15 **A After it was done, right.**  
 16 **Q Now, I take it -- you know, you testified**  
 17 **earlier that when they contacted you or when they sent you**  
 18 **something you understood that to be a request for your**  
 19 **guidance or advice or something like that. After you said I**  
 20 **think so, did you then go and do anything else to find out**  
 21 **whether it was appropriate for them to put a moratorium in**  
 22 **place in this --**  
 23 **A I did not.**  
 24 **Q When did she ask you this question? When did**  
 25 **Ann Wirth ask you whether it was appropriate for the**

27

1 township to put a moratorium in place?  
 2 **A I'm just guessing sometime in December.**  
 3 **Q It was fairly close to the January meeting and**  
 4 **is that why you're guessing December?**  
 5 **A Yes, sometime in December would be my**  
 6 **estimate.**  
 7 **Q Now, after the moratorium was put in place,**  
 8 **did you understand that they were looking for guidance to**  
 9 **see whether or not the moratorium that they had put in place**  
 10 **was appropriate?**  
 11 **A I don't think I was ever consulted about that**  
 12 **subsequent with respect to a specific question.**  
 13 **Q The moratorium was never placed in writing,**  
 14 **correct?**  
 15 **A Well, I believe it was adopted at a township**  
 16 **meeting.**  
 17 **Q But there was no like official document that**  
 18 **says we hereby adopt a moratorium or anything like that?**  
 19 **A I believe there is.**  
 20 **Q Do you know where that is?**  
 21 **A Well, I believe it was in the January minutes,**  
 22 **is what I'm referring to.**  
 23 **Q Okay. So you're saying that the official**  
 24 **document consists of the January minutes?**  
 25 **A To my understanding, yes.**

28

1 **Q Do you in fact know whether or not the**  
 2 **township supervisors advertised specifically prior to the**  
 3 **January meeting that they would be adopting a moratorium?**  
 4 **A I do not know that.**  
 5 **Q Did they ask you whether or not they were**  
 6 **required to advertise?**  
 7 **A They did not.**  
 8 **Q So after they adopted the moratorium, did you**  
 9 **have occasion to discuss with them the impact of it or the**  
 10 **legality of it or anything like that?**  
 11 **A Not really until after the lawsuit was filed.**  
 12 **Q Well, I think you testified a moment ago that,**  
 13 **you know, if they were going to do something like a**  
 14 **subdivision ordinance, they would need a period of public**  
 15 **comment or an advertisement or something like that. Did you**  
 16 **have any concerns that they would need the same thing for a**  
 17 **moratorium?**  
 18 **A Well, perhaps I should have, but, you know,**  
 19 **again, I was just asked that question and really did not**  
 20 **follow it up further.**  
 21 **Q So you had a general idea that they were going**  
 22 **to do the moratorium but you didn't know exactly when they**  
 23 **were going to do it?**  
 24 **A Well, I really didn't know until after it was**  
 25 **done.**

29

1 **Q Do you keep time cards for your work for the**  
 2 **township?**  
 3 **A No.**  
 4 **Q How do you keep track of your time?**  
 5 **A Sometimes that's difficult. I try to**  
 6 **reconstruct things. Generally I have not kept time records**  
 7 **for the township.**  
 8 **Q So at the time that you decide that it's time**  
 9 **to bill them, you just try and remember what you did?**  
 10 **A Pretty much.**  
 11 **Q And you put it directly onto an invoice?**  
 12 **A Yes. You lose a lot of time that way, by the**  
 13 **way.**  
 14 **Q I know, we hear about that all the time in the**  
 15 **profession. So you don't have any records of time --**  
 16 **A I don't.**  
 17 **Q -- kept for -- the only records would be the**  
 18 **actual invoice that you send?**  
 19 **A Correct.**  
 20 **Q You do keep records of the invoices, however?**  
 21 **A Yes.**  
 22 **Q Did anybody ask you in connection with this**  
 23 **lawsuit to search your files for documents in response to a**  
 24 **request for production of documents from the Corneals?**  
 25 **A I don't believe so.**

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30

1 Q Not at any time ever?

2 A Well, be more specific with your question.

3 Q Okay. I will represent to you, and anybody

4 can object that wants to, that there was a request for

5 production of documents served upon the supervisors, the

6 township defendants, in September of 2000 which asked that

7 they or any of their agents or affiliates or, you know,

8 servants or whatever --

9 A Okay, I did get a -- I did get a phone inquiry

10 from Ann Wirth and she asked me if I had any record of the

11 public meeting, the advertisement of the public meeting

12 requesting comment on the subdivision ordinance.

13 Apparently-- she may have called the Daily

14 News, which is our local paper, general circulation, and

15 they initially couldn't find anything. I, you know,

16 initially looked and I couldn't find anything. And what I

17 had done at her request is prepared an advertisement to be

18 placed in the Daily News.

19 Q You did this when?

20 A Well, I -- I assume it would have been in

21 December because the -- I'm not positive, but I think the

22 public meeting was on January 8th and I -- you know,

23 basically I prepared the advertisement, gave it to the Daily

24 News and Ann couldn't find it. In any event, I called her

25 back and at the time I called her back the Daily News had

31

1 found the advertisement.

2 Q The advertisement for the January 8th meeting?

3 A I believe it was January 8th.

4 Q Now, are you saying that was a different

5 meeting than the regular monthly meeting?

6 A Well, if you can tell me what day of the week

7 January 8th was --

8 Q I think we can do that. When did she call you

9 and ask you whether or not you had any records of the public

10 meeting?

11 A This would have been very -- very recently.

12 Q In the last two weeks?

13 A I would say yes.

14 Q Was it in the last week?

15 A Well, I think it was shortly before the time

16 you and Mr. Sherr were coming to her office to look at

17 documents.

18 Q I see.

19 A So if that's -- that's a good time reference,

20 it would have been before that, shortly before.

21 Q Was that the first time that anybody contacted

22 you at all about producing documents in connection with this

23 lawsuit?

24 A That I can recall.

25 MS. SIMPSON: I have a January 2000 calendar

32

1 if you want him to look at it.

2 MS. MONTGOMERY: Sure. Thank you.

3 THE WITNESS: Well, I'm wrong on the 8th

4 because I'm sure this wouldn't have been on a Saturday. It

5 might have been on the 6th.

6 BY MS. MONTGOMERY:

7 Q Well, we're going to look for a second through

8 our documents to see if we have anything that would, you

9 know, match up with the notice that you're talking about.

10 So you're saying that she then got that or told you that the

11 Daily News had located --

12 A The Daily News had it, right. And I think she

13 said the Daily News had faxed it to her. So I think you

14 would have had it with your -- with your document review.

15 MS. MONTGOMERY: Excuse me a moment.

16 (Pause.)

17 BY MS. MONTGOMERY:

18 Q What about the July notice, did she -- well,

19 the notice for the July 10th meeting at which the

20 subdivision ordinance was passed --

21 A Yes.

22 Q -- did she contact you about that at all?

23 A You mean at the time?

24 Q Yes.

25 A Yes.

33

1 Q You mean prior to the time the subdivision

2 ordinance was passed?

3 A Well, she would have contacted me at that time

4 to advertise that ordinance and I believe there were two

5 other ordinances that were being considered that evening.

6 Q Did you draft the notice for the newspaper for

7 the ordinances that were to be passed --

8 A Yes.

9 Q -- at the July 10 meeting?

10 A Yes.

11 Q I'm going to show you something that we'll

12 mark as Newton Exhibit 1.

13 (Notice produced and marked as Newton Exhibit

14 No. 1.)

15 BY MS. MONTGOMERY:

16 Q First of all, I'd ask you to look at the

17 handwriting that is on this exhibit and I'll represent to

18 you that we got this -- well, you can see the fax legend is

19 from Mr. Sherr's office.

20 A Um-hum.

21 Q So we had this faxed to us on May 11th. Do

22 you know whose handwriting that is on the side?

23 A I do not.

24 Q It's not yours?

25 A No.



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1 Q Do you know what plus item number 3, January  
2 2000 --  
3 A **I have no idea what it means.**  
4 Q -- minutes refers to?  
5 A **I do not.**  
6 Q Do you know what day of the week or what date  
7 actually this notice was placed in the Daily record?  
8 A **Daily News?**  
9 Q **Daily News.**  
10 A **I do not.**  
11 Q From your memory do you have an estimate of  
12 the time period when this was placed in the Daily News?  
13 A **Well, it would have to have been placed at**  
14 **least seven days prior to the meeting. Other than that I**  
15 **don't know.**  
16 Q Do you know whether that occurred?  
17 A **I assume it did.**  
18 Q Do you have a copy of this in your files that  
19 would perhaps have a date on it?  
20 A **I probably have a copy in my files, but I**  
21 **don't believe it would have a date on it.**  
22 Q Does the --  
23 A **The practice is -- when you take something to**  
24 **the Daily News, there's normally a two or three day lead**  
25 **time between the time you present it and when it's actually**

35

1 **put in the paper.**  
2 Q Who actually presents it to the Daily News?  
3 A **I would have presented this to the Daily News.**  
4 Q Because you drafted the ordinance notice?  
5 A **Yes, and I'm -- it's just a couple blocks**  
6 **away.**  
7 Q So is that called the Huntingdon Daily News?  
8 A **It's called the Daily News.**  
9 Q The Daily News?  
10 A **Yes.**  
11 Q And it's a Huntingdon, Pennsylvania  
12 publication?  
13 A **Yes.**  
14 Q Do you know just from reading that newspaper  
15 whether on each page of the newspaper there's a date across  
16 the top?  
17 A **Yes, there would be.**  
18 Q There would be?  
19 A **Um-hum.**  
20 Q So if we could get a copy of the original, we  
21 would be able to see that, correct?  
22 A **Yes. The township would also have that in its**  
23 **file if you have the township records because with the**  
24 **ordinance there's a proof of publication. In other words, a**  
25 **proof of publication that's signed by someone and classified**

36

1 **at the Daily News. Now, that wouldn't be part of the**  
2 **ordinance necessarily, but it would be part of the township**  
3 **record.**  
4 Q Okay.  
5 MS. MONTGOMERY: Excuse me for just one  
6 second.  
7 (Pause.)  
8 BY MS. MONTGOMERY:  
9 Q So your testimony is that the proof of  
10 publication would be with the original ordinance?  
11 A **Well, not necessarily the original ordinance,**  
12 **but it would be with the township records.**  
13 Q Somewhere in the township records?  
14 A **Yes.**  
15 Q Do you know how the township records are kept?  
16 A **I do not.**  
17 Q You've never given any advice to them on how  
18 to keep their records?  
19 A **I have not.**  
20 Q Do you know whether they keep their ordinances  
21 -- or how they keep their ordinances?  
22 A **Well, they should keep them in an ordinance**  
23 **book. And I'm sure over the years I've mentioned that to**  
24 **them, but I don't know.**  
25 Q Now, let's talk a little bit more about the

37

1 subdivision ordinance. As changes were made to it, you'd go  
2 back and forth with Ann Wirth over the changes that were to  
3 be added?  
4 A **I would say that the changes were basically**  
5 **generated by the township.**  
6 Q And by the township you mean Ann Wirth?  
7 A **Well, the township and its supervisors.**  
8 Q So each time she sent you a new change or  
9 revision you would review it and comment on it or what?  
10 A **I would say I would review it.**  
11 Q But not necessarily comment on it?  
12 A **Right.**  
13 Q And why is that?  
14 A **Well, you know, again, if I had a comment to**  
15 **make, I would make it. I don't recall -- I just don't**  
16 **recall what comments, if any, I had made after the changes**  
17 **started to be made. I think the township primarily was**  
18 **relying upon advice from Richard Stahl who was the county**  
19 **planning director.**  
20 Q Did you get actual draft copies of the  
21 subdivision ordinance or was it e-mailed to you by computer  
22 or what?  
23 A **It wasn't e-mailed. I would say draft copies.**  
24 Q So Ann would mail them to you or something?  
25 A **I would say yes, either mail or she would be**



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1 in town and drop them off.  
 2 Q Did she ever send you anything in writing, or  
 3 did anybody from the township ever send you anything in  
 4 writing about the moratorium that was put in place in  
 5 January 2000?  
 6 A Not until it was requested I think initially  
 7 by Mr. Corneal and then through his attorney James Himes did  
 8 I get it. My recollection is that when I received that  
 9 request I made a request to the township and after receiving  
 10 it I delivered it to Jim Himes.  
 11 Q Is that how you became aware that the  
 12 moratorium had been put into place?  
 13 A No, I -- I was aware that the moratorium was  
 14 in place, but I had not had that -- that document, that  
 15 minute entry until that time.  
 16 Q Typically as the township holds its meetings  
 17 do they send you -- routinely send you copies of their  
 18 minutes?  
 19 A No.  
 20 Q How do you keep track of what the township has  
 21 done at their meetings?  
 22 A I don't unless they deem it advisable to let  
 23 me know.  
 24 Q So do you have copies of the township meetings  
 25 in your files -- I mean minutes of the township meetings in

39

1 your files?  
 2 A No, I do not.  
 3 Q Do you sometimes get copies of the minutes of  
 4 the township meetings?  
 5 A No.  
 6 Q How does the township go about letting you  
 7 know what they've done? Do they call you or do they write  
 8 to you or what?  
 9 A It would probably be by telephone.  
 10 Q From Ann Wirth or any one of the supervisors?  
 11 A Generally from Ann. And I guess occasionally,  
 12 you know, writing, too, but it's primarily I would guess  
 13 telephone.  
 14 Q Well, you mentioned Mr. Corneal a moment ago.  
 15 Can you tell me how you first came to come in contact with  
 16 Mr. Corneal?  
 17 A As a result of this lawsuit?  
 18 Q No, first at all, at any time.  
 19 A Many years ago we had a case against each  
 20 other and it was a land case. I don't recall too much about  
 21 it. My client's name was Suydam. It involved I think the  
 22 sale of a farm or an installment sale agreement. That, I  
 23 believe, is my first contact with him.  
 24 Q You mean Mr. Corneal represented the opposing  
 25 party?

40

1 A Yes, the other party.  
 2 Q Mr. Corneal wasn't a party?  
 3 A No.  
 4 Q So you think that was like 10 years ago or  
 5 something, 15?  
 6 A At least, probably more.  
 7 Q After that how did you first come in contact  
 8 with Mr. Corneal?  
 9 A Probably through a telephone call he made to  
 10 my office.  
 11 Q And about what time frame was that?  
 12 A I'm just guessing January of 2000.  
 13 Q You think that's the first time you talked to  
 14 him since the lawsuit that you were mutually involved in on  
 15 behalf of clients?  
 16 A I believe so. I mean, it could have been in  
 17 December, but it was around that time period.  
 18 Q Did you have any contact with the supervisors  
 19 or Ann Wirth or anybody else in the township about Mr.  
 20 Corneal prior to the time he contacted your office?  
 21 A No.  
 22 Q What did Mr. Corneal say when he contacted --  
 23 did you actually talk to him when he contacted your  
 24 office --  
 25 A I talked to him.

41

1 Q -- in December or January 2000?  
 2 A He indicated, you know, he was doing a  
 3 subdivision. He was anxious to get the subdivision  
 4 approved. You know, I believe I said that we didn't have a  
 5 subdivision ordinance. It's hard for me to -- to  
 6 specifically say what happened in the first conversation. I  
 7 think I talked to him on another occasion as well.  
 8 Q When he first talked to you, do you know  
 9 whether or not the moratorium had been put into place? For  
 10 the record, we've done so many of these depositions I may be  
 11 being --  
 12 A I'm not sure.  
 13 Q Hold on a second. I may be being unclear --  
 14 A Yeah.  
 15 Q -- but I want to say that we're talking about  
 16 the moratorium on subdivisions. I don't think we said that  
 17 in this depo.  
 18 A I believe so.  
 19 Q He contacted you before the moratorium was  
 20 in --  
 21 A No, no, I believe it was after the moratorium.  
 22 Q What makes you think it was after the  
 23 moratorium?  
 24 A I don't know. That's a guess. I simply do  
 25 not know.

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1 Q And so he told you that he wanted to get the  
2 subdivision approved, right, and what did you tell him?  
3 A I don't recall. I think that I indicated that  
4 we didn't have a subdivision ordinance. I know that he had  
5 an agreement of sale with an individual by the name of  
6 Hewett, another individual by the name of Smith and he was  
7 anxious to consummate that transaction.  
8 Q Did you tell him that he didn't need approval  
9 of his subdivision if there was no subdivision ordinance?  
10 A I do not recall.  
11 Q Do you think he needed approval of his  
12 subdivision if there was no subdivision ordinance?  
13 A Well, if the moratorium is valid, if you  
14 assume that, then of course there couldn't be any  
15 subdivision. But if the moratorium is not valid, then he  
16 would not need approval.  
17 Q Prior to the passage of the moratorium would  
18 he have needed approval of his subdivision?  
19 A No.  
20 Q So he could have just filed a subdivision plan  
21 at the recorder of deed's or not filed a subdivision plan,  
22 right? He could have just sold off pieces of his property,  
23 right?  
24 A There is subdivision for DEP planning  
25 purposes, but he would not have had to have any township

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1 A I would have said no. Now, I don't -- there  
2 may have been something in Mr. Corneal's agreement with Mr.  
3 Hewett and Miss Smith that related to subdivision approval.  
4 So maybe that was what generated this.  
5 Q When you were called about the moratorium --  
6 by Ann Wirth, correct?  
7 A Correct.  
8 Q Did Ann Wirth mention Mr. Corneal to you at  
9 that time?  
10 A I do not believe so.  
11 Q Did she mention the reason for the moratorium?  
12 A The only thing that was mentioned was that the  
13 township wanted to be ready in the event that there were  
14 subdivisions coming into the township.  
15 Q From State College you mean?  
16 A From the Centre County area which is kind of a  
17 growth area.  
18 Q Do you know whether or not there were any  
19 particular spurts of growth or anything like that in the  
20 Jackson Township area that would have led to such a concern?  
21 A Not that I'm aware of.  
22 Q Did Ann Wirth specifically mention Mr. Corneal  
23 to you when she talked to you about the moratorium?  
24 A Not that I can recall.  
25 Q And just so I'm clear about your testimony

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1 approval for a subdivision per se.  
2 Q Do you know how Mr. Corneal came to even  
3 request township approval for the subdivision plan?  
4 A I do not.  
5 Q Did the township officials contact you about  
6 Mr. Corneal contacting them about approval for his  
7 subdivision?  
8 A Not that I can recall. I just don't know.  
9 Q You just testified that if the moratorium was  
10 invalid then of course he wouldn't need township approval.  
11 Why do you say that?  
12 A Well, you know, you wouldn't need township  
13 approval unless there is a subdivision ordinance.  
14 Q You wouldn't?  
15 A You would not. So really the moratorium  
16 itself, you know, would only -- if the moratorium is valid,  
17 then for that period of time during which there was a  
18 moratorium there wouldn't be any subdivisions.  
19 Q Well, prior to the time the moratorium was put  
20 in place, did the township ask you about that particular  
21 issue, can we deny approval of a subdivision or even demand  
22 presentation of a subdivision plan if we have no ordinance?  
23 A If the township would have asked me, that's  
24 what I -- what I would have said.  
25 Q You would have said no?

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1 earlier, is it that -- you said that you told her I think so  
2 about something and that was about the moratorium?  
3 A Yes, about the moratorium.  
4 Q You thought that she could put in a  
5 moratorium?  
6 A I thought that the township could --  
7 Q The township could?  
8 A The moratorium, yes.  
9 Q Even though there was no subdivision  
10 ordinance?  
11 A Correct.  
12 Q What do you think -- what is the moratorium?  
13 I mean, is it an ordinance, is it a -- I mean, what is it in  
14 terms of a legal tool or entity or document?  
15 A Well, what Jackson Township did was just do it  
16 by way of a motion in its regular meeting. Whether or not  
17 more needs to be done I don't know.  
18 Q Is there a vote required, do you know?  
19 A I don't know. In this case there was a vote.  
20 Q Was there a -- some sort of a proposal, a  
21 written proposal or a resolution or anything like that that  
22 would be required to impose a moratorium?  
23 A I don't know.  
24 Q Let me ask you this: You said that there was  
25 a vote. How do you know that there was a vote?

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1 A I knew that there was a vote based upon the  
2 minutes that I received from Ann Wirth.  
3 Q Afterward?  
4 A I think it said moved and seconded, as I  
5 recall.  
6 Q So we'll go back to Mr. Corneal for a moment.  
7 You said you think you talked to Mr. Corneal twice?  
8 A I think so.  
9 Q The first time you think was sometime in  
10 December, January, you're guessing?  
11 A I'm guessing. I'm just guessing.  
12 Q When do you think the second time was?  
13 A I don't know.  
14 Q Was it after the township refused to allow him  
15 to subdivide, do you know that?  
16 A I would say it probably would be, yes.  
17 Q And did you speak directly with him?  
18 A Yes.  
19 Q Did he call you or did you return his call or  
20 what?  
21 A I think he called me.  
22 Q And you took the call?  
23 A Yes.  
24 Q And what was the substance of that  
25 conversation?

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1 A I think the substance of the conversation was  
2 he requested my assistance to see what could be done to  
3 resolve the conflicts with the township.  
4 Q Did he mention the moratorium to you?  
5 A Not that I can recall.  
6 Q Do you think there was a need for a moratorium  
7 in the township?  
8 MS. SIMPSON: Objection, irrelevant.  
9 MS. MONTGOMERY: I'm sorry?  
10 MS. SIMPSON: It's irrelevant. It's asking  
11 for a legal opinion.  
12 MS. MONTGOMERY: Well, relevance --  
13 THE WITNESS: That's not my -- I don't know.  
14 MS. MONTGOMERY: Are you instructing him not  
15 to answer?  
16 MS. SIMPSON: No.  
17 THE WITNESS: I don't know. That's not my  
18 decision.  
19 BY MS. MONTGOMERY:  
20 Q You don't know whether or not there was a need  
21 for a moratorium?  
22 A That's not something that -- my opinion is not  
23 relevant in my opinion.  
24 Q What township is Huntingdon in -- or, no, what  
25 township is in -- is there a -- I'm asking a silly question

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1 I think. Jackson Township is not within the town of  
2 Huntingdon or anything? You don't live in Jackson Township,  
3 is what I'm trying to get to.  
4 A No, I do not. There's Huntingdon borough that  
5 I reside in.  
6 Q Right, sorry. How far away from that is  
7 Jackson Township?  
8 A I would say approximately 16 miles.  
9 Q Sixteen miles?  
10 A Yes. Jackson Township is halfway between  
11 Huntingdon borough and Centre County.  
12 Q I'm going to show you a document that's been  
13 previously marked as Wirth Exhibit 6 but we'll mark it again  
14 as Newton 2. I'll ask you to look at it, please, after the  
15 court reporter has marked it.  
16 (Minutes dated 1/4/00 produced and marked as  
17 Newton Exhibit No. 2.)  
18 THE WITNESS: Okay.  
19 BY MS. MONTGOMERY:  
20 Q Are these the minutes that you're referring  
21 to?  
22 A Yes, and I see I was in error. I don't see a  
23 move and a second with respect to the moratorium.  
24 Q But these are the minutes that you're  
25 referring to that --

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1 A Yes.  
2 Q -- put you on notice that there was a  
3 moratorium?  
4 A Well, as I said, I think I became aware that  
5 there was a moratorium prior to receiving these minutes.  
6 Q Oh, okay. All right, but --  
7 A Yes.  
8 Q But these are the minutes that you're  
9 referring to that --  
10 A Yes.  
11 Q That reflect the moratorium?  
12 A Yep.  
13 Q Thank you. Now, I think you had testified  
14 earlier that there was a vote. Now, if there wasn't a vote,  
15 would the moratorium in your opinion, aside from the  
16 question -- aside from the question of whether or not you  
17 could put a moratorium in place when there was no  
18 subdivision ordinance, if there was no vote, would it be an  
19 effective moratorium?  
20 A I don't know.  
21 Q When you are asked about township procedure,  
22 you know, for example, whether or not a township can put a  
23 subdivision ordinance in place, whether or not they can put  
24 a moratorium in place, whether or not they need to vote, to  
25 what do you refer, what law?

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1 A Well, either the township code or the  
 2 Municipalities Planning Code.  
 3 Q And you just don't know as you sit here  
 4 whether or not -- you know, what the answer to those  
 5 questions I asked --  
 6 A And, again, these are the minutes. I don't  
 7 know if the minutes accurately reflected what happened at  
 8 the meeting.  
 9 Q Now, back to Mr. Corneal for a moment. Do you  
 10 recall receiving correspondence from Mr. Corneal?  
 11 A Yes.  
 12 Q What did you do with that correspondence when  
 13 you received it?  
 14 A I believe I forwarded it onto the township.  
 15 Q Did you call Mr. Corneal back after you  
 16 received the correspondence from him?  
 17 A I don't believe so.  
 18 Q So the two times you think you talked to him  
 19 were in response to telephone calls from him, correct?  
 20 A That's correct.  
 21 Q Did you ever receive other telephone calls  
 22 that did not actually result in a conversation between the  
 23 two of you?  
 24 A I don't know. I did receive calls from Jim  
 25 Himes.

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1 Q Did you return --  
 2 A On behalf of Mr. Corneal.  
 3 Q Did you talk to Mr. Himes?  
 4 A Yes, I did.  
 5 Q But other than those two phone calls, you  
 6 never talked to Mr. Corneal again on the telephone anyway?  
 7 A I don't believe so.  
 8 Q Did you talk to him in person?  
 9 A No, I did not.  
 10 Q Let me ask you this: Did Mr. Corneal at some  
 11 point deliver a copy of the subdivision plan to you?  
 12 A I think he did.  
 13 Q And what did you do with that?  
 14 A I delivered it to the township.  
 15 Q Do you know how he came to deliver a copy of  
 16 that subdivision plan to you?  
 17 A I don't.  
 18 Q Did you ask him to do it?  
 19 A I don't recall.  
 20 Q Did you receive it -- this copy of a  
 21 subdivision plan, did you receive it after one of the phone  
 22 calls you had with Mr. Corneal?  
 23 A I would say I did.  
 24 Q Were you expecting it, let me ask you that?  
 25 Were you expecting this copy that you received?

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1 A I really can't say. I don't recall if he said  
 2 in the telephone conversation he was going to drop it off,  
 3 but I do know that I received it and I don't know if it came  
 4 -- I certainly wasn't there when it was dropped off. I  
 5 don't know if it came from Mr. Corneal personally or perhaps  
 6 from David Simpson who at the time I believe was working for  
 7 him. Mr. Simpson is a surveyor.  
 8 Q Did you have any occasion after receiving a  
 9 copy of the subdivision ordinance -- I'm sorry, the  
 10 subdivision plan from Mr. Corneal, did you have any occasion  
 11 to talk with the township supervisors or Ann Wirth or any  
 12 other township officials about Mr. Corneal's efforts to  
 13 build on his property and to subdivide?  
 14 A I believe I attended a meeting in May.  
 15 Q May of 2000?  
 16 A May of 2000. And the primary purpose of --  
 17 the township was having -- having difficulty with New  
 18 Enterprise Stone and Lime Company and I think it was the  
 19 result of a road that they had done and they were having all  
 20 kinds of problems with it, the bond was going to run out,  
 21 and I think that was -- they asked me to come out and look  
 22 at that, which I did, and I believe at that time Mr.  
 23 Corneal's subdivision was also discussed.  
 24 Q Was this a public meeting?  
 25 A Well, no.

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1 Q This was a private meeting with the township  
 2 supervisors?  
 3 A It was a meeting -- it was like a workshop  
 4 meeting.  
 5 Q What is a workshop meeting?  
 6 A It was a meeting to discuss, at least in my  
 7 view, general administrative business. I think there was  
 8 some response that had to be taken with respect to the New  
 9 Enterprise situation and I know I did a letter on that. I  
 10 don't recall the exact nature of it.  
 11 Q Now, a workshop meeting, when is a workshop --  
 12 you said a workshop meeting is to discuss administrative  
 13 matters, I believe?  
 14 A (Witness nods head affirmatively.)  
 15 Q Are these routine meetings that the township  
 16 holds?  
 17 A Not that I'm aware of. The reason that I was  
 18 called, I think, was to address this New Enterprise  
 19 situation that had a deadline.  
 20 Q When was this workshop meeting held?  
 21 A I think it was in May.  
 22 Q Prior to the May public meeting, 2000?  
 23 A You mean the township meeting?  
 24 Q Yes.  
 25 A I don't know.

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1 Q Have you ever been to any other workshop  
2 meetings?  
3 A After the lawsuit -- this lawsuit was filed, I  
4 attended I believe two meetings with the township to discuss  
5 the lawsuit and the complaint.  
6 Q Now, where does the term workshop meetings  
7 come from? Is that your term or is it something --  
8 A That's my term.  
9 Q Is that something the township officials use  
10 as well?  
11 A That I'm not aware of. I don't know.  
12 Q Do you know -- are you familiar with meetings  
13 held by the township supervisors and the secretary and  
14 anybody else prior -- immediately prior to the public  
15 meetings?  
16 A I'm not.  
17 Q You've never discussed those and they've never  
18 discussed those meetings with you?  
19 A No.  
20 Q You've never been at a meeting with them of  
21 that nature?  
22 A No. Anytime I attend a meeting -- the  
23 meetings are held at the fire hall, Stone Creek Valley Fire  
24 Hall, and I've never been to a prior --  
25 Q To a pre-meeting?

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1 A Right.  
2 Q How about meetings at Ann Wirth's, the  
3 secretary's office? I think I said that badly. The  
4 secretary, Ann Wirth's office on her property, have you ever  
5 been to a meeting there?  
6 A Just what I've described to you. There were  
7 two times where I met with them concerning this lawsuit and  
8 I believe there was a time in May that I met with them  
9 concerning the New Enterprise issue. And I believe at that  
10 time Mr. Corneal's -- I may have delivered the subdivision  
11 at that time. I just don't recall.  
12 Q The subdivision plan you mean?  
13 A Yes.  
14 Q So the workshop meetings that you're referring  
15 to are held at Ann Wirth's office?  
16 A Yes.  
17 Q On her property?  
18 A Correct. That is also the township office.  
19 Q Correct.  
20 A That's where the township records are kept.  
21 Q Have you had other opportunity to go to the  
22 township office besides these workshop meetings?  
23 A No.  
24 Q Have you been there only three times?  
25 A Those are the times that I can recall.

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1 Q If you're going to meet in person with the  
2 supervisors or Ann Wirth or any other township official, do  
3 you generally do it in your office or do you just have  
4 telephone conferences?  
5 A Well, we've had -- we have had meetings in my  
6 office. I'd say primarily by telephone. And there are  
7 occasions where, you know, I either go to the regular  
8 township meeting or --  
9 Q Have you ever been to a township meeting when  
10 Mr. Corneal was present?  
11 A No, I have not.  
12 Q Have you ever been to a township meeting at  
13 which Mr. Corneal's issues, his building and subdivision  
14 issues were discussed?  
15 A I may have been and I don't -- I can say for  
16 sure that I was never at a township meeting attended by Mr.  
17 Corneal. If Mr. Corneal attended the March meeting, I  
18 definitely was not there. I know that there was a meeting  
19 that I attended in which the subdivision -- the township --  
20 a regular township meeting in which the subdivision  
21 ordinance was discussed.  
22 And the reason I seem to recall that is that I  
23 had a copy of at that time what our proposed ordinance was  
24 and someone in the audience asked if they could review it  
25 and I said sure and gave it to them, and I'm not positive

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1 when that was.  
2 Q Do you recall who that person was?  
3 A I don't.  
4 Q Do you recall how many people were at that  
5 meeting?  
6 A I would say seven to 10 maybe.  
7 Q Do you recall who any of those seven to 10  
8 people might have been?  
9 A I don't.  
10 Q You mentioned a moment ago that you had two  
11 meetings about this lawsuit after it was filed.  
12 A Two meetings regarding this lawsuit and other  
13 related issues, litigation issues. There may have been  
14 another meeting that would have dealt with Mr. Corneal  
15 building without a building permit.  
16 Q And when do you think that was?  
17 A Again, I don't know. It was certainly after  
18 -- I believe that we had filed -- when I say we, the  
19 township filed in October.  
20 Q When you say filed, you mean the lawsuit that  
21 you filed in Huntingdon County?  
22 A Yes. I believe that was in October.  
23 Q And --  
24 A So it would have been prior to that. We may  
25 have had a meeting on that lawsuit. I don't know.



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1 Q Who was present at the two meetings that you  
2 remember, aside from the one you just discussed which you're  
3 not sure about?  
4 A **One meeting the township supervisors, myself,**  
5 **Ann Wirth. I think that's all. Another meeting of the**  
6 **township supervisors, myself and Mr. Sherr and Ann Wirth.**  
7 Q Did Mr. Sherr represent you at that time?  
8 A **No.**  
9 Q Mr. Sherr has never represented you, correct?  
10 A **No.**  
11 Q At that first meeting where Mr. Sherr wasn't  
12 present, where was that meeting held? At Ann Wirth's office  
13 you said?  
14 A **At the township office.**  
15 Q Do you know when that meeting was?  
16 A **I do not.**  
17 Q And at that time --  
18 A **It would have been after -- I think the**  
19 **lawsuit was filed -- I know we were served I think 4th of**  
20 **July weekend. So I'm just guessing it would have been**  
21 **sometime in July of 2000.**  
22 Q And at that time did you discuss the legality  
23 of the moratorium?  
24 A **No, we dealt with the lawsuits.**  
25 Q What about the legality of the subdivision --

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1 well, of refusing to allow Mr. Corneal to subdivide or to  
2 build, did you discuss that?  
3 A **Well, we discussed it in the sense that we**  
4 **went over the paragraphs of the complaint, you know,**  
5 **paragraph by paragraph. So to that extent it was discussed,**  
6 **the context of the complaint.**  
7 Q The second meeting that you recall when Mr.  
8 Sherr was present, was Mr. Van Dommelen present at that  
9 meeting?  
10 A **He may have been. I can't say for sure, but**  
11 **he may have been.**  
12 Q So you said the township supervisors, Ann  
13 Wirth, yourself, Mr. Sherr and who else?  
14 A **If Mr. Van Dommelen was there. He could have**  
15 **been there.**  
16 Q Do you recall meeting with Mr. Van Dommelen  
17 about this lawsuit at some time?  
18 A **Only in that context, yes.**  
19 Q You do recall him being at some meeting in  
20 which you --  
21 A **I would say yes.**  
22 Q So at that second meeting that Mr. Sherr was  
23 present at, did you at that time then discuss the --  
24 generally discuss the legality of preventing Mr. Corneal  
25 from building or from subdividing?

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1 MR. SHERR: I object to the form of the  
2 question and assert attorney/client privilege at this time.  
3 MS. MONTGOMERY: You can object, but you can't  
4 instruct him not to answer and you don't represent him.  
5 MR. SHERR: I can instruct on behalf of the  
6 privilege holders that their attorney not answer.  
7 MS. MONTGOMERY: Well, he's just testified  
8 generally that he hasn't given advice about the subject of  
9 this lawsuit and that you didn't represent him in connection  
10 with this lawsuit. So I don't think those discussions are  
11 privileged.  
12 MR. SHERR: I think they are and I don't think  
13 he said what you just stated he said and that the purpose of  
14 that meeting was to discuss the lawsuit and he was there as  
15 a representative of the township.  
16 MS. MONTGOMERY: No, he didn't say that at  
17 all.  
18 BY MS. MONTGOMERY:  
19 Q Were you there --  
20 A **Yes, I did.**  
21 Q You were there as the township's attorney?  
22 A **I was there as the township solicitor, yes.**  
23 Q As the township solicitor?  
24 A **(Witness nods head affirmatively.)**  
25 Q In response to this lawsuit you were there as

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1 the township solicitor?  
2 A **Correct.**  
3 MS. MONTGOMERY: I'm going to take a short  
4 break right now. We'll come back in 15 minutes.  
5 (Break taken at 10:54 a.m. until 11:24 a.m.)  
6 BY MS. MONTGOMERY:  
7 Q Mr. Newton, you had indicated that you bill  
8 the township for legal advice given to the township at some  
9 point after you give them that legal advice, right?  
10 A **Right.**  
11 Q Now, you also have indicated now that you  
12 attended this meeting at which Tony Sherr was present as  
13 solicitor to the township and not as a defendant in the  
14 lawsuit?  
15 A **(Witness nods head affirmatively.)**  
16 Q Did you bill the township for your attendance  
17 at that meeting?  
18 A **Not yet, but I will.**  
19 Q When was that meeting?  
20 A **Sometime in July, last July.**  
21 Q So it's been 11 months?  
22 A **Yes.**  
23 Q Now, have you billed them since for other  
24 work?  
25 A **No, I haven't.**



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1 Q You haven't sent them a bill since last July?  
 2 A No, I haven't.  
 3 Q And you don't have any records of work that  
 4 you've done from -- during that time period, July? Are you  
 5 just going to try to reconstruct it?  
 6 A Yes.  
 7 Q I'm going to ask you some questions and just  
 8 see what happens here. It's my position that if in fact  
 9 there is any attorney/client privilege about advice that you  
 10 gave concerning the issues in this lawsuit that it has been  
 11 thoroughly waived. All of the deponents in this case have  
 12 answered numerous questions about conversations with you and  
 13 there's been no objection.  
 14 Your own counsel has asked the individual  
 15 deponents about communications with you and there's been no  
 16 objection from Mr. Sherr. So I'm going to ask my questions  
 17 and we'll go from there.  
 18 Back to the meeting at which you were present  
 19 when Mr. Sherr was present, at that time was there any  
 20 inquiry made of you as to whether or not the moratorium that  
 21 was put in place was effective or legal?  
 22 MR. SHERR: Object to the form of the question  
 23 and on behalf of the privilege holders instruct the witness  
 24 not to answer.  
 25 BY MS. MONTGOMERY:

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1 Q Mr. Sherr is not your counsel, correct?  
 2 A That's right.  
 3 MS. MONTGOMERY: What we're going to be forced  
 4 to do is halt the deposition and schedule it for another  
 5 time because it's been very clear why we need to have Mr.  
 6 Newton's deposition and I'm going to need to present a  
 7 motion to the court that includes transcripts of testimony  
 8 from all the other depositions showing that this privilege  
 9 has long ago been waived.  
 10 MR. SHERR: Well, I would --  
 11 MS. MONTGOMERY: If indeed there was a  
 12 privilege.  
 13 MR. SHERR: I would suggest that you follow  
 14 the dictates of the federal rules in this regard and mark  
 15 that and ask the rest of your questions, take the rest of  
 16 your deposition and we'll have the court rule on that at a  
 17 later time as the federal rules provide.  
 18 MS. MONTGOMERY: Well, as I said, I'm putting  
 19 on the record right now that you are preventing me from  
 20 asking questions about communications with the township  
 21 supervisors that have always been known to be the subject of  
 22 this deposition and we are going to have to reschedule  
 23 additional time after the filing of the motion to quash,  
 24 after the filing of a motion with the judge.  
 25 MS. SIMPSON: Let me interject here. This

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1 objection and the claim of privilege arises from this  
 2 meeting at which the township defendants, Mr. Sherr and Mr.  
 3 Newton were all present and they were discussing issues of  
 4 the lawsuit. I believe that questions to the township  
 5 officials that have been deposed have been with respect to  
 6 communications prior to this meeting and not involving this  
 7 meeting and specific advice, legal advice, that was rendered  
 8 or questions that were asked of Mr. Newton.  
 9 Now, I agree with Mr. Sherr, this is a  
 10 particular area -- if you've got questions to ask --  
 11 MS. MONTGOMERY: Oh, we're going to go  
 12 forward.  
 13 MS. SIMPSON: Okay.  
 14 MS. MONTGOMERY: I am, yes.  
 15 MS. SIMPSON: Okay. So you will ask questions  
 16 other than what occurred at this meeting?  
 17 MS. MONTGOMERY: Sure, absolutely.  
 18 MS. SIMPSON: You said we were going to halt  
 19 the deposition --  
 20 MS. MONTGOMERY: I'm sorry, I didn't mean to  
 21 say it that way. What I really am saying is -- trying to  
 22 put counsel on notice that we will have to reschedule in  
 23 order to get the questions that we need to have answered  
 24 answered, even if it's -- even if it requires submitting  
 25 them in camera to the judge.

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1 MS. SIMPSON: That assumes that your motion  
 2 would be granted.  
 3 MS. MONTGOMERY: Exactly. I'm not assuming  
 4 anything, but I'm saying that I'm not going to give up the  
 5 issue and I'm just putting counsel on notice as a matter of  
 6 courtesy that if you're going to not allow me to ask these  
 7 questions now I'll have to go to the court to try to ask  
 8 them later and we'll go on with whatever you allow him to  
 9 answer at this time, okay.  
 10 MR. SHERR: And just so we're clear, the  
 11 objection goes to this meeting that was attended -- I have  
 12 not objected to any other conversations that my clients have  
 13 had with Mr. Newton other than attendance at a meeting which  
 14 I attended to discuss this lawsuit. And I am not preventing  
 15 you from asking any questions. I'm merely asserting  
 16 attorney/client privilege with respect to this meeting.  
 17 MS. MONTGOMERY: Have you read the deposition  
 18 transcripts since you're asserting this privilege and saying  
 19 it hasn't been waived? Have you read the deposition  
 20 transcripts that have been provided?  
 21 MR. SHERR: You know, let's just go on with  
 22 the deposition.  
 23 MS. MONTGOMERY: So you're asserting the  
 24 privilege and you're refusing to answer that. Have you read  
 25 the deposition transcripts?

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<p style="text-align: right;">66</p> <p>1 MR. SHERR: You know, I don't have to answer  2 your questions and I certainly don't have to answer  3 questions about what I have done or have not done and I'm  4 not going to do that. So why don't you just --  5 MS. MONTGOMERY: Just so we have a good record  6 for the court of the basis for your objection.  7 MR. SHERR: I made my basis very clear on the  8 record. I don't know how I can make it any clearer.  9 MS. MONTGOMERY: Okay.  10 BY MS. MONTGOMERY:  11 Q Mr. Newton, have you been made aware of a  12 court order that requires sequestration of the defendant  13 deponents in this matter?  14 A Yes.  15 Q When did you become aware of it?  16 A I believe it was from my counsel. I don't  17 recall.  18 Q No, I mean when.  19 A I don't know.  20 Q Have you had any communication with the  21 defendant deponents, the other defendants in this case, the  22 supervisors, the building permit officer, the sewage  23 enforcement officer for Jackson Township since the middle of  24 May 2001?  25 A Any communication at all?</p>	<p style="text-align: right;">68</p> <p>1 done for that period of time prior to November back to the  2 last time you billed them?  3 A Yes.  4 Q Mr. Newton, I'm going to show you an exhibit  5 that has been previously marked but we're going to mark it  6 again for purposes of this deposition and ask you to look at  7 it.  8 (Letter dated 1/31/00 produced and marked as  9 Newton Exhibit No. 3.)  10 BY MS. MONTGOMERY:  11 Q Mr. Newton, do you recognize this letter?  12 A I do.  13 Q Do you recall receiving it?  14 A Yes.  15 Q For the record, it's a letter -- a January 31,  16 2000 letter from David Corneal to you, correct?  17 A Correct.  18 Q Now, do you recall when you received this  19 letter whether you had spoken to Mr. Newton -- I mean to Mr.  20 Corneal prior to receiving this letter, as the letter itself  21 indicates?  22 A I don't have a recollection but the letter  23 says as per our telephone conversation. So I assume that I  24 did.  25 Q Do you recall whether in your telephone</p>
<p style="text-align: right;">67</p> <p>1 Q No -- well, any communication at all.  2 A Yes.  3 Q Have you had any communication with them about  4 the contents of their depositions --  5 A No.  6 Q -- since the middle of May?  7 A No.  8 Q Have you had any communication with them prior  9 to the middle of May about what the content of their  10 depositions would be?  11 A No. Let me say that I've had communication  12 with Ann Wirth, not about what the content of the deposition but  13 about the health of Ralph Weiler who is one of the  14 supervisors. That's kind of a tangential issue. Again, not  15 with respect to the content of the deposition, but sometime  16 in May Barry Parks, who is the SEO for the township, and I  17 met at Mr. Corneal's property and Mr. Parks made a comment  18 about the length of his deposition, but that was it.  19 Q Thank you for that. If you had billed the  20 township since last July, would you have included any work  21 that had been done in the period prior? Say you billed them  22 in November, would you have included your work --  23 A Work prior, now what do you mean?  24 Q Well, if you billed the -- say you billed the  25 township in November 2000, would you have included the work</p>	<p style="text-align: right;">69</p> <p>1 conversation -- well, do you recall whether that telephone  2 conversation that he refers to in this letter was the first  3 or the second of the two that you remember?  4 A I don't know. I would think it would be the  5 first.  6 Q So do you recall receiving a telephone call  7 after receiving this letter?  8 A Yes, yes.  9 Q I'm just trying to put the whole thing in a  10 good time frame for us so we can work it out. What did you  11 do with this letter when you received it?  12 A I believe I forwarded it to the township.  13 Q Did you have some discussions with the  14 township about his -- the concerns set forth in this letter?  15 A Not that I can recall.  16 Q I mean, did you just send it on with an FYI or  17 something?  18 A I -- I feel certain I would have sent it on.  19 If I had any discussion, it would have been with Ann Wirth.  20 Q Why would it have been with Ann Wirth?  21 A Because she was my contact person with the  22 township.  23 Q She's the one who relayed information back and  24 forth from the supervisors to you and from you to the  25 supervisors?</p>

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1 A I don't know if relay information is correct,  
 2 but she was the person that I generally -- when I received a  
 3 contact from the township, it would generally be through  
 4 Ann.  
 5 Q If the township was asking for advice, the  
 6 township supervisors were asking for advice, would you  
 7 convey that information to Ann?  
 8 A It depends. I mean, if she would call me,  
 9 yes.  
 10 Q And so you would -- that would be your way of  
 11 giving advice to the township, to talk to Ann?  
 12 A Again, it depends. It depends on the context.  
 13 Q Well, let me just ask it another way then. At  
 14 times your way of giving advice to the township would be to  
 15 communicate information to Ann, correct?  
 16 A That's correct.  
 17 Q You notice in this letter that there was some  
 18 concern raised about the Hewetts and their commitment for a  
 19 loan for settlement for purchase of a piece of the tract of  
 20 land at issue in this case?  
 21 A Yes.  
 22 Q Do you know the Hewetts?  
 23 A I do not.  
 24 Q Have you met the Hewetts?  
 25 A No.

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1 Q Have you -- and I'm using the Hewetts a little  
 2 loosely.  
 3 A I think there's a Hewett and a Smith, as I  
 4 recall.  
 5 Q Right, exactly, but they are a couple,  
 6 correct?  
 7 A Yes.  
 8 Q So have you met either one of them?  
 9 A I don't believe so.  
 10 Q Have you spoken with them on the telephone?  
 11 A I spoke one time with Mr. Hewett.  
 12 Q In what context was that?  
 13 A Mr. Hewett called me because he was having  
 14 trouble with Mr. Corneal regarding this agreement of sale.  
 15 Q When you say trouble with Mr. Corneal, what do  
 16 you mean by that?  
 17 A That's my term. He was having difficulty in  
 18 dealing with Mr. Corneal, whether it was regarding his  
 19 agreement of sale -- he wanted representation.  
 20 Q Did you ever represent Mr. Hewett?  
 21 A No. He asked if I could represent him and I  
 22 said no. I felt it could be a potential conflict because I  
 23 was the township solicitor. I -- my normal practice in  
 24 those circumstances would be to give him names of other  
 25 attorneys, one of whom was Mr. Reeder, and he ended up

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1 retaining Mr. Reeder.  
 2 Q When he called you and told you that he was  
 3 having trouble with Mr. Corneal, did he tell you what the  
 4 trouble was?  
 5 A He probably did, but I don't remember. You  
 6 know, again, he wanted representation in dealing with Mr.  
 7 Corneal and that's the extent that I got into it.  
 8 Q Do you know whether he already had -- let me  
 9 ask you this: Did you talk to him before -- Mr. Hewett  
 10 before receiving this letter?  
 11 A I don't know. I don't know when it was. I do  
 12 know that I did talk to him at my office and he called on  
 13 the telephone.  
 14 Q So he called you and then you had him come in,  
 15 is that how it happened?  
 16 A No, he never came in. I told him I could not  
 17 represent him. I had a conflict --  
 18 Q Oh, I'm sorry.  
 19 A -- and then I gave him -- I certainly gave him  
 20 the name of Mr. Reeder. And, again, my normal practice  
 21 would be to give him two or three other attorneys as well.  
 22 I don't know if I did that or not, but I know that I gave  
 23 him Mr. Reeder's name.  
 24 Q But when you just said I talked to him at my  
 25 office, you meant you were at your office?

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1 A I was at my office, yes.  
 2 Q And it was on the telephone?  
 3 A Yes, correct.  
 4 Q Just the one time?  
 5 A One time.  
 6 Q Did you ever talk to Miss Smith?  
 7 A No.  
 8 Q Were you ever at a township meeting where the  
 9 Hewett and Smith --  
 10 A No. I'm sorry I jumped the gun. No.  
 11 Q That's okay. I need to finish my sentence,  
 12 that's all. Maybe this will help us place the time frame a  
 13 little bit, you know, in context. Do you recall whether or  
 14 not you discussed this letter that you received --  
 15 A I'm certain I didn't discuss this letter.  
 16 Q Let me finish my sentence. Whether or not you  
 17 discussed this letter that you received from Mr. Corneal  
 18 with Mr. Hewett when he called?  
 19 A I feel certain I did not discuss the letter.  
 20 Q Did you discuss this letter with Mr. Reeder?  
 21 A No.  
 22 Q But you did send it onto the township?  
 23 A I believe so, yes.  
 24 Q Do you recall whether -- do you recall  
 25 speaking to Mr. Hewett about his concerns about Mr.

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1 Corneal's efforts to obtain permission for his subdivision?  
 2 A No.  
 3 Q When you say you don't recall, are you certain  
 4 it never happened or you just don't recall?  
 5 A I don't recall. What I recall from the  
 6 conversation is that he wanted representation in his  
 7 dealings with Mr. Corneal. That's what I recall.  
 8 Q So Mr. Hewett eventually chose to go to Mr.  
 9 Reeder, correct?  
 10 A Correct.  
 11 Q Now, did you have any discussions with Mr.  
 12 Reeder about Mr. Corneal's efforts to obtain township  
 13 cooperation in subdividing and selling this property?  
 14 A Generally, no. At some point in time Mr.  
 15 Reeder asked me if I thought that the township would have  
 16 its subdivision ordinance adopted by June 30th and I  
 17 responded I didn't think so and that was the extent of my  
 18 conversation with Mr. Reeder.  
 19 Q And what was the June 30th date?  
 20 A I don't know. That was Mr. Reeder's question  
 21 to me.  
 22 Q So you remember the June 30th date. How do  
 23 you recall that?  
 24 A My recollection is that that was the time in  
 25 which the agreement of sale between Mr. Corneal and Mr.

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1 Hewett and Miss Smith -- that had to be consummated by that  
 2 date.  
 3 Q So you told him at that time -- now that you  
 4 recall that that was what the June 30th was relevant to, you  
 5 told him at that time you didn't think the subdivision  
 6 ordinance would be approved, right?  
 7 A By June 30th, yes.  
 8 Q Right, by June 30th. What was the extent of  
 9 your conversation --  
 10 A That was it.  
 11 Q -- with Mr. Reeder? Just for her sake, wait  
 12 until I finish the question. So it was just one question?  
 13 A Generally, yes, that's all I can recall.  
 14 Q Did you have any other conversations with Mr.  
 15 Reeder about Mr. Corneal's property?  
 16 A Not that I can recall.  
 17 Q What about after the subdivision ordinance was  
 18 put into place?  
 19 A Well, I know I showed Mr. Reeder the -- this  
 20 complaint, this lawsuit, but other than that that's about  
 21 it.  
 22 Q Why did you show Mr. Reeder the complaint?  
 23 A Well, we're both municipal solicitors and I  
 24 wanted him to be aware of it.  
 25 Q Mr. Reeder represents various townships and

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1 boroughs as well?  
 2 A He represents some townships and boroughs.  
 3 Q Does he represent counties as well?  
 4 A No.  
 5 Q Just townships and boroughs?  
 6 A Yes.  
 7 Q Do you know which ones he represents?  
 8 A Well, I know he represents the borough of  
 9 Mount Union. I know he represents the zoning board for  
 10 Huntingdon borough. I'm not sure about townships.  
 11 Q Did you ever have occasion to discuss with Mr.  
 12 Reeder the Hewett's withdraw from the sales agreement,  
 13 cancellation of the sales agreement with Mr. Corneal?  
 14 A I was aware that Mr. Reeder on behalf of Mr.  
 15 Hewett filed an action, a magisterial action against the  
 16 Corneals.  
 17 Q How did you become aware of that?  
 18 A Mr. Reeder told me.  
 19 Q Do you know why Mr. Reeder told you that?  
 20 A I do not.  
 21 Q Was it just your practice to discuss business  
 22 back and forth about your clients?  
 23 A Occasionally we do.  
 24 Q What about the moratorium, have you ever  
 25 discussed the moratorium with Mr. Hewett?

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1 A I don't believe so.  
 2 Q I'm sorry, I mean Mr. Reeder.  
 3 A I don't believe so.  
 4 Q What about the ordinance itself and the  
 5 legality of it or anything like that, did you ever discuss  
 6 that with --  
 7 A No.  
 8 Q With Mr. Reeder?  
 9 A No.  
 10 Q I'm going to show you another letter that  
 11 we're going to mark as Newton Exhibit 4.  
 12 (Letter dated 8/18/00 produced and marked as  
 13 Newton Exhibit No. 4.)  
 14 BY MS. MONTGOMERY:  
 15 Q I'd ask you to take a look at it for me,  
 16 please. Do you recall receiving this letter, which for the  
 17 record is an August 18, 2000 letter from Mr. Corneal to Mr.  
 18 Newton?  
 19 A I believe I did, yes.  
 20 Q What did you do with this letter?  
 21 A I believe I forwarded it onto the township.  
 22 Q Did you call Mr. Corneal back about it?  
 23 A No.  
 24 Q Did you send Mr. Corneal the building permits  
 25 that -- application forms that he's asking you for?

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1 A I believe that was done by the township. I  
2 did not. I did not have them.  
3 Q Did you advise the township supervisors that  
4 they really ought to send him these applications?  
5 A I would say I probably did.  
6 Q Did you ever receive back from Mr. Corneal a  
7 copy of the filled out application forms?  
8 A Not that I can recall.  
9 Q Were you consulted about the applications once  
10 they were sent?  
11 A No.  
12 Q Were you consulted about a building permit for  
13 Mr. Corneal in general?  
14 A I would say -- I would say yes. There was a  
15 -- I know I wrote to Mr. Corneal at the request of the  
16 township and I think it was in July, the end of July,  
17 because he had commenced construction without a building  
18 permit. So I wrote to him then and asked him to stop  
19 construction until he received a building permit.  
20 So the building permit issue was an issue that  
21 had been discussed I think quite frequently because I  
22 believe the township supervisors were being criticized  
23 because Mr. Corneal was acting really on his own and the  
24 township really wasn't doing anything to enforce the  
25 building permit ordinance.

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1 Q Do you know when you wrote the July letter  
2 that you referred to -- do you know whether or not Mr.  
3 Corneal had been given building permit applications at that  
4 time?  
5 A I don't know. I don't know.  
6 Q Do you recall talking at all with the township  
7 supervisors or the building permit officer or anybody else  
8 about Mr. Corneal's request for building permit  
9 applications?  
10 A No.  
11 Q Were you ever informed about a visit that Mr.  
12 Corneal made to Mr. Van Dommelen to obtain building permit  
13 applications?  
14 A I was.  
15 Q When were you informed about that?  
16 A I don't know.  
17 Q Were you asked for advice about that?  
18 A No.  
19 Q They just told you about it -- what did they  
20 tell you -- who told you and what did they tell you?  
21 A I believe it was Ann Wirth and Ann Wirth  
22 related to me that I think Mr. Corneal had been to Mr. Van  
23 Dommelen's home to get applications. And of course at that  
24 point there had not been a sewage permit so the building  
25 permit applications could not have been granted without the

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1 sewage permit. So I did become aware of that through Mrs.  
2 Wirth.  
3 Q Were you aware that they wouldn't even give  
4 him an application?  
5 A I became aware of that.  
6 Q When did you become aware of that?  
7 A Through Miss Wirth.  
8 Q At the same time?  
9 A I think at the same time.  
10 Q Was it about the time frame in which Mr.  
11 Corneal went to Mr. Van Dommelen and made that request?  
12 A I don't know.  
13 Q You don't recall?  
14 A I think he clearly should have had the  
15 building permit applications.  
16 Q I'm going to show you a letter that we'll mark  
17 as Newton Exhibit 5 and ask you to look at it for me,  
18 please.  
19 (Letter dated 7/28/00 produced and marked as  
20 Newton Exhibit No. 5.)  
21 BY MS. MONTGOMERY:  
22 Q Is this the letter that you're referring to  
23 that you wrote in July?  
24 A Yes, it is.  
25 Q Now, at the time that you wrote this letter

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1 you were aware that Mr. Corneal hadn't even received  
2 applications, correct?  
3 A I don't know that. I don't know where this  
4 letter fits in in terms of time.  
5 Q But at least at this point in time the  
6 supervisors had called you and told you that they were  
7 denying -- refusing to give Mr. Corneal building permits,  
8 correct?  
9 A I don't know that. Again, I don't know when  
10 this was in terms of Mr. Corneal's meeting with Mr. Van  
11 Dommelen, whether it was before or after.  
12 Q I'm going to show you a letter that we'll mark  
13 as Newton Exhibit 6 and ask you to identify that for the  
14 record if you can.  
15 (Letter dated 5/5/00 produced and marked as  
16 Newton Exhibit No. 6.)  
17 BY MS. MONTGOMERY:  
18 Q Have you seen this letter in the past?  
19 A I have.  
20 Q How did you come to see it?  
21 A I think that Mr. Corneal sent it to me.  
22 Q You think he sent you a copy of it?  
23 A Yes.  
24 Q This letter is dated May 5, 2000, correct?  
25 A Yes.



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1 Q And it indicates that he had been unable to  
2 obtain an application, correct?  
3 A Yes.  
4 Q You believe that he copied you at the time  
5 that he sent it to Mr. Van Dommelen?  
6 A Yes.  
7 Q What did you do about this letter, if  
8 anything?  
9 A I believe that Mr. Corneal wrote me a letter  
10 around the same time, maybe the same date.  
11 Q Mr. Corneal wrote you a letter around the same  
12 date?  
13 A Yes. And my sense is I probably would have  
14 forwarded both onto the township.  
15 Q At that time did you provide the township with  
16 any advice about whether or not they ought to have given Mr.  
17 Corneal at least an application?  
18 A Well, I understood why the township didn't  
19 give him an application, because of the sewage permit  
20 issue. It was around this time -- and I believe it was  
21 after I got these letters from Mr. Corneal and there was a  
22 letter addressed to me and then a copy of a letter to Mr.  
23 Van Dommelen that I suggested to the township that we get  
24 together and meet with Mr. Corneal and see if we could work  
25 this out.

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1 I recall in the last conversation I had with  
2 Mr. Corneal he had mentioned to me that he was considering  
3 litigation, a lawsuit, and I certainly didn't want that to  
4 happen and I believe in his letter to me he even mentioned  
5 that. So I contacted the township and put a request in to  
6 -- let's meet, sit down and see if we can resolve the  
7 differences.  
8 Q And what occurred at that time?  
9 A At what time?  
10 Q Well, you said you called the township and  
11 told them that we ought to meet and sit down and talk about  
12 this. What occurred?  
13 A The response back was that they didn't want to  
14 meet.  
15 Q They didn't want to meet with you?  
16 A They didn't want to have a joint meeting with  
17 Mr. Corneal and myself to try to resolve whatever  
18 differences the parties had.  
19 Q Who gave you that response?  
20 A That response was given to me by Ann Wirth.  
21 Q Was that in a telephone call?  
22 A Yes.  
23 Q Did she tell you why they didn't want to meet?  
24 A She indicated that Mr. Corneal's conduct at  
25 the township meetings was disrespectful. He apparently had

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1 lost his temper and as a result the supervisors felt  
2 reluctant to meet.  
3 Q And what was your response to that, they don't  
4 have to meet if they don't want?  
5 A That's their decision, right.  
6 Q What about the issue of them not even giving  
7 him an application? I mean, did you indicate to them that  
8 you at least needed to resolve that?  
9 A Well, I don't -- I don't specifically recall.  
10 I did indicate that he needed -- he needed to have, you  
11 know, building permit applications. I mean, I'm certain  
12 that that was communicated at one point or another and it --  
13 I wrote him again after the July letter in August, again at  
14 the request of the township.  
15 Q Now, I think you indicated that you had  
16 received a letter directly from Mr. Corneal around the same  
17 time that he copied you on that letter to Mr. Van Dommelen,  
18 correct?  
19 A Correct.  
20 Q I'll show you a letter that we'll mark as  
21 Newton Exhibit 7 and I'd ask you to look at that, please.  
22 (Letter dated 5/5/00 produced and marked as  
23 Newton Exhibit No. 7.)  
24 BY MS. MONTGOMERY:  
25 Q Is this the letter that you're referring to

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1 that you --  
2 A Yes.  
3 Q That you received from Mr. Corneal?  
4 A Correct.  
5 Q Now, you may have testified to this but -- and  
6 I'm sorry if you already did, but did you then forward this  
7 letter onto the supervisors?  
8 A I believe so, yes.  
9 Q If you were going to forward letters to the  
10 supervisors, you would send them to Ann Wirth; is that  
11 correct?  
12 A The township office, which would be the  
13 township address, the R.D. 1 box number.  
14 Q With respect to the contents of this letter,  
15 you note that -- Mr. Corneal makes reference to a refusal to  
16 receive a building permit to construct a garage, okay. Now,  
17 do you recall at the time did you discuss with the township  
18 their refusal to even give a permit or an application to  
19 construct a garage?  
20 A Well, I believe their reason for that is it  
21 was more than a garage. It was a three-bay garage and it  
22 had -- according to what I subsequently learned from Mr. Van  
23 Dommelen seeing the sketch that I think Mr. Corneal had,  
24 there was an apartment on the second floor of this garage  
25 which would have required a sewage permit.



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1 Q Mr. Van Dommelen showed you that sketch?  
 2 A No, he did not. I just became aware of that  
 3 either through -- probably through Mrs. Wirth.  
 4 Q At what time did you -- were you told that by  
 5 Mrs. Wirth?  
 6 A I don't know.  
 7 Q Do you know what it is that made Mrs. Wirth  
 8 believe that this was a -- that there was supposed to be an  
 9 apartment over this garage?  
 10 A My understanding is that that information came  
 11 from Mr. Van Dommelen, but I don't know. I can tell you  
 12 that in late May I was on site and in fact there's a  
 13 three-bay garage and an apartment. That's what was in fact  
 14 constructed.  
 15 Q An apartment?  
 16 A Yes.  
 17 Q Did you go inside?  
 18 A Yes.  
 19 Q What was inside that made you believe that  
 20 there was an apartment?  
 21 A A kitchen, bathroom. I think it was described  
 22 by someone as a mother-in-law suite.  
 23 Q When did you go inside?  
 24 A It was the -- the date -- if you have a  
 25 calendar, I can tell you. It was a Friday in May. I was

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1 with Terry Williams and it was the time we met on site with  
 2 Mr. Corneal's SEO, Mr. Bowes, to look at the test holes that  
 3 had been done. Now, this was this year now, not in 2000.  
 4 This was this May.  
 5 Q Okay, but --  
 6 A I would say -- I'm looking at a calendar  
 7 here. I think it was May 18th, 2001.  
 8 Q But back to May 2000, which is the point at  
 9 which he couldn't even get an application for his garage,  
 10 what was it that made Miss Wirth or anybody else believe  
 11 that he was looking to build an apartment?  
 12 A I think it was based upon the sketch that he  
 13 showed Mr. Van Dommelen, but I don't know. I really don't  
 14 know the answer to that.  
 15 Q Did there come a time when you learned that  
 16 Mr. Corneal sought to build a garage with a storage area  
 17 over it?  
 18 A No.  
 19 Q Nobody ever told you about that request?  
 20 A No.  
 21 Q What about the art studio? Do you know  
 22 anything about his request to build an art studio?  
 23 A Not really, other than the fact that he was  
 24 building one.  
 25 Q Did anybody from the township ever talk to you

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1 about the fact that Mr. Corneal wanted to build an art  
 2 studio?  
 3 A I would -- I'd have to say yes, but I don't  
 4 have any specific recollection.  
 5 Q If you don't have any specific recollection,  
 6 what is it that makes you think yes?  
 7 A That information was communicated to me  
 8 somehow and I don't recall how. In fact, there is a garage  
 9 with an apartment above it, there is an art studio, there is  
 10 a home and there is another separate garage on the property  
 11 as constructed now.  
 12 Q Do you know when Mr. Corneal commenced  
 13 construction on his property?  
 14 A I don't know exactly, but certainly in the  
 15 year 2000. And as of May 18th of 2001, it looked to me like  
 16 construction was basically completed.  
 17 Q Well, on May 5th, 2000 when he was asking you  
 18 for applications, trying to get applications, had he started  
 19 construction?  
 20 A I don't know.  
 21 Q How about in the summer of 2000 when he  
 22 instituted this lawsuit?  
 23 A Yes, the July 28th letter I think was written  
 24 because it came to the township's attention that he had been  
 25 constructing.

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1 Q Do you know what he was constructing at that  
 2 time?  
 3 A I do not know.  
 4 Q Did the township tell you what he was trying  
 5 to construct at that time?  
 6 A I don't know.  
 7 Q Do you know whether if Mr. Corneal wanted to  
 8 build a property that didn't require sewage, build a  
 9 structure that didn't require sewage --  
 10 A Not that I'm aware of.  
 11 Q Well, I didn't finish my question. Do you  
 12 know whether if that's what he wanted to build, whether he  
 13 would need approval of sewage modules?  
 14 A I don't believe so if no sewage was  
 15 contemplated.  
 16 Q Do you know whether if what he wanted to build  
 17 was just a garage or an art studio without sewage or water,  
 18 whether that would be considered -- that act occurring would  
 19 be considered a subdivision of his land?  
 20 A Well, I don't think it would be a subdivision  
 21 for DEP purposes unless the second structure contained  
 22 sewage.  
 23 Q Do you recall at any time discussing with the  
 24 township officials, any of the defendants in this case,  
 25 whether the building of a second home would render Mr.

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1 Corneal's 95-acre tract a subdivision?  
 2 A Well, it's my understanding -- and I think I  
 3 learned actually at our May 18th meeting when we were  
 4 talking to Mr. Bowes, who was the SEO there, the  
 5 interpretation that Altoona DEP has given to our townships  
 6 in that area is that, yes, in fact that is a subdivision for  
 7 DEP purposes.  
 8 Mr. Bowes informed me that in terms of the  
 9 Williamsport area if the first structure was maybe over 20  
 10 years old or more they don't consider that to be a  
 11 subdivision.  
 12 So, you know, there's probably -- there is  
 13 some conflict between DEP, but we -- the township was  
 14 following the direction given from Altoona and that's what  
 15 has been done in our county.  
 16 Q Well, now, let me just ask you this: Is this  
 17 something that came up in the context of Mr. Corneal's  
 18 property or is it just something that has -- you've been the  
 19 township solicitor for what, 15 years you said?  
 20 A Approximately.  
 21 Q The entire 15 years has this been an applied  
 22 rule?  
 23 A It's been an applied rule in Huntingdon County  
 24 and I'm aware of that rule being applied to other townships.  
 25 Q Do you know what this interpretation by DEP

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1 comes under, what law? What are they looking at to base  
 2 their interpretation on?  
 3 A Well, it's the Pennsylvania Sewage Facilities  
 4 Act and the regulations promulgated thereunder.  
 5 Q That's what DEP has told you they're --  
 6 A That's my understanding.  
 7 Q What about the Municipalities Planning Code,  
 8 do you know whether there was anything in there that would  
 9 indicate that the construction of any additional home would  
 10 render a 95-acre tract a subdivision?  
 11 A I'm not aware of any, no.  
 12 Q Do you know of any other instances in Jackson  
 13 Township when the attempt to build a second home on a large  
 14 tract of land, say 50 or 95 acres like this, has been  
 15 treated as a subdivision where there is another existing  
 16 structure?  
 17 A I can tell you that -- I don't have any  
 18 specific knowledge, but I know this has always been the  
 19 interpretation. And Leroy Koch, who was the secretary prior  
 20 to Ann Wirth, was one of the founding members of the  
 21 Huntingdon County Sanitary Administrative Committee and I  
 22 know that the committee adopted that interpretation.  
 23 So whether or not it had applied previously in  
 24 Jackson Township, my inclination is to say yes, but I can't  
 25 give you any specific example.

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1 Q Did they ever consult you about this notion of  
 2 a subdivision occurring as a result of the construction of a  
 3 second home?  
 4 A That was discussed, yes.  
 5 Q About Mr. Corneal?  
 6 A Yes.  
 7 Q Had they ever consulted you in the past about  
 8 that?  
 9 A I would say yes, but maybe not necessarily  
 10 with this board of supervisors.  
 11 Q When did they consult you about this  
 12 subdivision notion resulting from the construction of a  
 13 second home?  
 14 A I don't have a specific date, but I know it  
 15 was -- it was discussed and I believe my conversation was  
 16 with Ann Wirth.  
 17 Q Do you know whether it was prior to the time  
 18 that you received these letters from --  
 19 A I don't know.  
 20 Q From Mr. Corneal.  
 21 A I don't know.  
 22 Q Do you know whether it was prior to the time  
 23 this lawsuit was filed?  
 24 A I'm sure it was prior to the time the lawsuit  
 25 was filed.

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1 Q In imposing this interpretation on Mr.  
 2 Corneal, were the township supervisors acting pursuant to  
 3 your guidance and advice?  
 4 A I would say that they were acting in  
 5 conformance with the practice and procedures utilized in  
 6 Huntingdon County by direction of DEP.  
 7 Q But in discussing it with you was Miss Wirth  
 8 seeking advice on behalf of the township?  
 9 A If she was seeking advice, I agreed with that  
 10 position because that's a position that has always been  
 11 taken in our county.  
 12 Q What was the nature of that conversation?  
 13 A I don't recall.  
 14 Q Do you recall how long the conversation was?  
 15 A I don't.  
 16 Q Was it a telephone conversation?  
 17 A It was a telephone.  
 18 Q Do you know that it happened prior to the  
 19 initiation of this lawsuit?  
 20 A The lawsuit I think was filed in July -- June  
 21 or July of 2000 and I feel certain it was before. I'm not  
 22 saying it wasn't also discussed after, but I think it was  
 23 also discussed before.  
 24 Q Was there a time that you became aware of Mr.  
 25 Corneal's recording of an additional deed in connection with

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1 his property?  
 2 A Yes.  
 3 Q How did you become aware of that?  
 4 A I think it -- first of all, all deeds that are  
 5 recorded in our county are published in the paper. I may  
 6 have seen it in the paper. And I did become aware that I  
 7 think the recording of this deed violated the Clean and  
 8 Green restrictions which would have meant rollback taxes  
 9 would have been paid. I believe I may have received a  
 10 request from Ann Wirth to get a copy of the deed and forward  
 11 it to them.  
 12 Q Do you know when that request was made?  
 13 A I do not.  
 14 Q What makes you think that the recording of  
 15 this deed would -- well, before I ask you that, you don't  
 16 recall exactly how you learned about the recording of the  
 17 deed?  
 18 A I may have seen it in the paper because I read  
 19 deed transfers and I know that I discussed it with Ann  
 20 Wirth.  
 21 Q Did you initiate that phone call or did she?  
 22 A She did.  
 23 Q Do you know how she became aware of it?  
 24 A Probably through the paper.  
 25 Q And did Miss Wirth ask you to do anything --

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1 A I don't know the specifics, although I believe  
 2 the recordation generated something from our assessment  
 3 office to Mr. Corneal.  
 4 Q And what does that have to do with the Clean  
 5 and Green Act?  
 6 A Well, the -- there are certain -- when you  
 7 have property in Clean and Green, it's a preferential  
 8 assessment. So there are restrictions that apply as to how  
 9 much land you can sell over what period of time and whatever  
 10 Mr. Corneal did with the recording of that deed violated  
 11 those restrictions. And I believe subsequently there was a  
 12 corrected deed that was recorded so as a result there wasn't  
 13 any penalty that was imposed.  
 14 Q And how did you find out about the corrected  
 15 deed?  
 16 A Again, I saw it in the paper, looked it up.  
 17 Q What did the corrected deed accomplish?  
 18 A You know, again, I'm not sure. I think it was  
 19 probably a transfer or conveyance back so the status quo was  
 20 maintained.  
 21 Q So you think that the deed was undone? In  
 22 other words, the --  
 23 A Yes.  
 24 Q The transfer was undone?  
 25 A Yes, whatever -- whatever was violative of the

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1 A No.  
 2 Q -- about recording of that deed?  
 3 A No.  
 4 Q Did you advise Miss Wirth to do anything?  
 5 A No.  
 6 Q Did Miss Wirth discuss with you the question  
 7 of the subdivision ordinance in connection with the  
 8 recording of that deed?  
 9 A I don't believe so.  
 10 Q Now, you recall that the subdivision ordinance  
 11 for Jackson Township was passed at a July 10 meeting,  
 12 correct?  
 13 A Yes.  
 14 Q Do you know whether this conversation was --  
 15 with Miss Wirth about this deed occurred before or after  
 16 that meeting?  
 17 A I don't. Certainly it was after the deed was  
 18 recorded obviously, but I don't know.  
 19 Q Do you know when the deed was recorded?  
 20 A I do not.  
 21 Q What is it about the recording of that deed  
 22 that makes you think that recording that deed violated --  
 23 the Clean and Green Act, is that what you said?  
 24 A Yes.  
 25 Q What is it?

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1 Clean and Green restriction was corrected.  
 2 Q So is it correct that if Mr. Corneal by  
 3 recording that deed had violated the Clean and Green Act,  
 4 the remedy would have been for him to pay certain taxes; is  
 5 that correct?  
 6 A Rollback taxes, yes. That has nothing to do  
 7 with the township. That's through the county.  
 8 Q And it has nothing to do with the ability to  
 9 subdivide, right?  
 10 A Well, there's certainly a relationship there.  
 11 Q It has to do with preferential tax treatment?  
 12 A Exactly.  
 13 Q And you correct that by paying whatever taxes  
 14 are due, correct?  
 15 A Yes. If Mr. Corneal wanted to pay the taxes,  
 16 he wouldn't have to have done anything.  
 17 Q Now, if I could refer you again to the May 5,  
 18 2000 letter to you from Mr. Corneal, it makes a reference to  
 19 the supervisors assuring citizens that the subdivision  
 20 ordinance under contemplation would be approved by April.  
 21 Do you know anything about that?  
 22 A I do not.  
 23 Q Do you know whether there was ever an April  
 24 deadline for approving the subdivision ordinance?  
 25 A I do not.

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1 Q Did the supervisors ever talk to you about the  
 2 effect that failure to approve the ordinance was having on  
 3 Mr. Corneal's efforts to convey a piece of his property to  
 4 Mr. Hewett and Miss Smith?  
 5 A Not directly, although I do remember Ann Wirth  
 6 communicating to me that at one of the meetings that Mr.  
 7 Corneal attended Mr. Hewett and Miss Smith were also  
 8 present. And at the beginning of the meeting -- at the  
 9 beginning of the meeting Mr. Corneal was -- and, again, this  
 10 is related secondhand to me, but at the beginning of the  
 11 meeting Mr. Corneal was talking about subdivision and  
 12 towards the end of the meeting he was saying he wasn't going  
 13 to subdivide at all, and that seemed to be, you know,  
 14 certainly a conflict if he was going to sell to Hewett and  
 15 Smith.  
 16 Q You recall Miss Wirth conveying that to you?  
 17 A Yes.  
 18 Q Anybody else, the building permit officer or  
 19 the sewage enforcement officer or anything like that?  
 20 A No.  
 21 MS. MONTGOMERY: I'm going to have to take  
 22 this conference call which I had scheduled for lunch.  
 23 (Discussion held off the record.)  
 24 (Luncheon recess taken at 12:17 p.m. until  
 25 1:02 p.m.)

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1 BY MS. MONTGOMERY:  
 2 Q Let me show you a document that we're going to  
 3 mark as Newton Exhibit 8 and let you look at that, please.  
 4 (Notice produced and marked as Newton Exhibit  
 5 No. 8.)  
 6 BY MS. MONTGOMERY:  
 7 Q Mr. Newton, I'm just going to draw your  
 8 attention to the right-hand column of this series of  
 9 classified ads. Do you see the public notice please take  
 10 notice?  
 11 A Yes.  
 12 Q And there are three in a row, right --  
 13 A Um-hum.  
 14 Q -- that refer to Jackson Township? Have you  
 15 seen this before?  
 16 A I don't believe so.  
 17 Q You had testified earlier that there was --  
 18 you thought there might be -- there should have been a  
 19 notice in connection with the meeting for the moratorium,  
 20 correct?  
 21 A No, I testified earlier that there should have  
 22 been a notice for the meeting concerning the subdivision  
 23 ordinance, the public hearing and also a notice concerning  
 24 the regular monthly meeting of the township.  
 25 Q I apologize if I recalled -- is it your

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1 testimony that if they were going to pass a moratorium on  
 2 subdivisions they wouldn't have had to put a notice in the  
 3 newspaper?  
 4 A I basically told you I believe that I didn't  
 5 know.  
 6 Q You believe they do, but you don't know?  
 7 A I -- my answer was I don't know.  
 8 Q So you haven't seen this Exhibit 8 in the  
 9 past?  
 10 A Not in this form, no.  
 11 Q Have you seen it in some other form?  
 12 A If I saw it, it would have been when it was  
 13 published in the Daily News, which appears to be 12/28/99.  
 14 Q You're saying that because of the handwriting  
 15 in the left-hand column, is that what you're saying,  
 16 12/28/99?  
 17 A I'm just assuming that's when it was  
 18 published, yes.  
 19 Q If you'll notice, there are three notices  
 20 about Jackson Township and the second one is the regular  
 21 monthly meeting notice, correct?  
 22 A Yes.  
 23 Q The first one then would suggest that there  
 24 was a special meeting, correct?  
 25 A No, actually I think the first one suggests

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1 that a hearing is taking place on June -- I'm sorry, on  
 2 January 4th, 2000 which would be the township's normal  
 3 meeting night.  
 4 Q So do they sometimes have their public  
 5 hearings on the same date --  
 6 A Yes.  
 7 Q -- as their normal meeting night?  
 8 A Yes. I was -- you know, I -- before I didn't  
 9 -- I couldn't recall whether or not it was the same night  
 10 as the meeting night or it was a different date, but  
 11 apparently this makes it clear that it is the same.  
 12 Q In other words, that they did the moratorium  
 13 and the monthly meeting --  
 14 A No.  
 15 Q -- on the same date?  
 16 A No. What I'm saying is that there was a  
 17 public hearing scheduled for January 4th at 7:30 to discuss  
 18 and answer questions regarding the proposed subdivision  
 19 ordinance. That apparently occurred on the same night as  
 20 their normal meeting night.  
 21 Q I showed you Exhibit 2 before. If you'll look  
 22 at Exhibit 2, the minutes of the meeting.  
 23 A Yes.  
 24 Q That's dated January 4 as well, right?  
 25 A Correct.

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1 Q And that's the meeting at which they passed  
2 the moratorium; is that correct?  
3 A That's correct.  
4 Q So typically I think that you had testified  
5 that if there was going to be something special going on you  
6 would draft the notice?  
7 A I drafted this first notice.  
8 Q For the public hearing?  
9 A Yes.  
10 Q It doesn't say anything about --  
11 A And I don't know that you characterized my  
12 response correctly. In this instance I drafted the notice  
13 at the request of the township.  
14 Q Okay.  
15 A Okay.  
16 Q Now, typically if you draft the notice, is it  
17 signed by you or is it signed by -- you know, as in the  
18 paper here it's signed by Ann Wirth, or could it be either  
19 way?  
20 A Well, it's not really signed. It can be  
21 either way. In this instance it was -- it was Ann Wirth.  
22 Typically when I advertise an ordinance, I'll put my name  
23 and address down and in each instance I would request that  
24 the statement, the invoice, along with the proof of  
25 publication be sent to the township.

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1 Q Now, did you draft the notice for the  
2 reorganizational meeting?  
3 A No.  
4 Q Or for the monthly meeting?  
5 A No.  
6 Q Now, typically where do the bills go for the  
7 newspaper notices that get published?  
8 A To the township.  
9 Q Even if you're the one who drafts and calls  
10 the newspaper and puts it in?  
11 A When I submit something to the Daily News, I  
12 direct that the statement and proof of publication be sent  
13 to the township.  
14 Q So I'm going to mark as Newton Exhibit 9  
15 another document that I'll ask you to look at, please.  
16 (Bill dated 12/28/99 produced and marked as  
17 Newton Exhibit No. 9.)  
18 BY MS. MONTGOMERY:  
19 Q Have you seen that before? For the record,  
20 it's a bill apparently from the Joseph Biddle Publishing  
21 Company; is that correct?  
22 A Yes, that's the Daily News. And, no, I  
23 haven't.  
24 Q Let me ask you this: Is it your understanding  
25 that you only need to publish a notice once or is it twice

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1 prior to any public hearing where there's going to be a vote  
2 or a --  
3 A Well, in the -- with respect to the  
4 subdivision ordinance, it's two times and that is a  
5 requirement under the Municipalities Planning Code. This --  
6 more or less the first notice on the public hearing was  
7 simply an informational thing. It wasn't required by  
8 anything and it was to try to get some public input, at  
9 least that was my understanding of it.  
10 Q You mean if there's going to be a public  
11 hearing on an issue, it doesn't have to be published  
12 separately?  
13 A That's not what I said.  
14 Q What did you say?  
15 A There are separate requirements for  
16 publication in the Municipalities Planning Code and my  
17 recollection is that that notice -- that notice has to go in  
18 two times.  
19 Q If you're going to vote on something, like an  
20 ordinance or something like that?  
21 A Right, it's part of, you know, the process.  
22 And my recollection is that we published the notice two  
23 times and then we published additional notice of the time we  
24 were going to adopt the ordinance.  
25 This initial notice for public hearing was, I

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1 believe, for the township's benefit to try to receive public  
2 input and it didn't count, so to speak, as an advertisement  
3 as regards the subdivision ordinance. It was simply to try  
4 to get input from the residents of the township.  
5 Q Just so I'm clear, if you -- if you were  
6 required -- and you say you don't know, but if you were  
7 required to publish notice of a moratorium the same as  
8 you're required to publish notice on the subdivision  
9 ordinance, then you'd be required to publish it twice just  
10 like you have to for the ordinance, correct?  
11 A I don't know.  
12 Q I'm going to represent to you that we've only  
13 seen one notice for the subdivision ordinance meeting that  
14 was held on July 10th, 2000 where that subdivision ordinance  
15 was passed. Is it your testimony that there were actually  
16 two notices published?  
17 A There was another notice published, yes.  
18 Q Do you know when?  
19 A Before the January meeting.  
20 Q Before the January --  
21 A I'm sorry, before the July meeting.  
22 Q Another notice that you drafted?  
23 A Yes.  
24 Q So you drafted both of them. Do you have  
25 records of them?



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1 A I may have. I don't have them with me.  
 2 Q And there would be --  
 3 A I believe the notices that are prior to the  
 4 formal notice concerning the adoption of the ordinance are  
 5 -- again, my recollection is that there is a two notice  
 6 requirement.  
 7 Q Right. And you believe that occurred with  
 8 respect to this subdivision ordinance?  
 9 A Yes.  
 10 Q I want to show you another document we'll mark  
 11 as Newton Exhibit 10.  
 12 (Letter dated 8/3/00 produced and marked as  
 13 Newton Exhibit No. 10.)  
 14 BY MS. MONTGOMERY:  
 15 Q Mr. Newton, this is an August 3, 2000 letter  
 16 from David Corneal to you, correct?  
 17 A Correct.  
 18 Q Do you recall receiving this letter?  
 19 A Yes, I do.  
 20 Q And what did you do with this letter?  
 21 A Forwarded it onto the township.  
 22 Q Anything else?  
 23 A Not that I can recall.  
 24 Q Do you recall having any discussions with  
 25 anybody from the township about this letter?

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1 A I don't. Of course, this was after the  
 2 federal lawsuit was filed. It may have been discussed at  
 3 one of our -- in one of our meetings pertaining to the  
 4 federal lawsuit. I don't recall -- I don't have a specific  
 5 recollection of this letter being discussed.  
 6 Q Now, this letter indicates that Mr. Corneal  
 7 sent you the sewer module for his house which apparently the  
 8 township had indicated there wasn't a proper sewer module  
 9 and that's why he couldn't have a building permit at least  
 10 in part, correct?  
 11 A Mr. Corneal never sent me a sewage module.  
 12 Q Have you ever seen Mr. Corneal's sewage  
 13 module?  
 14 A I don't believe so.  
 15 Q Now, here Mr. Corneal asked you to send him  
 16 applications which he'd been unable to obtain from the  
 17 township, correct?  
 18 A Where are you?  
 19 Q I'm sorry, next to the last paragraph at the  
 20 bottom.  
 21 A Well, I note here I enclose the sewer module  
 22 for my house. I don't remember getting it. If I did get  
 23 it, I forwarded it onto the township, but I don't remember  
 24 it.  
 25 Q So you didn't do -- you don't recall doing any

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1 review of the sewer module --  
 2 A No.  
 3 Q -- to see whether it looked complete or  
 4 anything?  
 5 A No.  
 6 Q What about Mr. Corneal's request that you  
 7 forward applications to him in care of Max McClintic?  
 8 A I believe subsequently I forwarded  
 9 applications -- building permit applications, but I believe  
 10 it was to Mr. Corneal directly.  
 11 Q So that was after this August 3rd letter,  
 12 correct?  
 13 A Yes.  
 14 Q Let me ask you about the garage which you say  
 15 now has an apartment over it in which you saw in May of  
 16 2001, correct?  
 17 A Yes.  
 18 Q Do you know when that garage was -- the  
 19 building of that garage commenced?  
 20 A I don't. I can only assume that it was  
 21 commenced sometime in the summer of 2000.  
 22 Q In the summer of 2000 you believe?  
 23 A (Witness nods head affirmatively.)  
 24 Q Did you have any other occasion at any time to  
 25 go to that garage and look at it?

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1 A No.  
 2 Q Has anybody ever told you that when the garage  
 3 was first built it contained just a workshop with no  
 4 sewage --  
 5 A No.  
 6 Q -- and such over top of it? Did you become  
 7 aware of that through any means whatsoever?  
 8 A No.  
 9 Q Is this the first time you've ever heard that?  
 10 A Yes. My understanding was that sewage was  
 11 contemplated for the garage itself, the second floor.  
 12 Q From the very beginning?  
 13 A That was my understanding.  
 14 Q Based on what?  
 15 A Based on what I had been told.  
 16 Q Now I'm going to show you another document  
 17 that we will mark as Newton Exhibit 11 and I'd ask you to  
 18 identify it if you can.  
 19 (Letter dated 8/31/00 with enclosures produced  
 20 and marked as Newton Exhibit No. 11.)  
 21 BY MS. MONTGOMERY:  
 22 Q Mr. Newton, have you seen that letter to Ann  
 23 Wirth dated August 31, 2000 prior to today?  
 24 A I don't believe so.  
 25 Q You've never seen it prior to today?



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1 A Not that I can recall.  
 2 Q Do you recall seeing the building permit  
 3 applications?  
 4 A I don't.  
 5 Q Did you get any telephone calls from Ann Wirth  
 6 about these building permit applications?  
 7 A Not that I can recall.  
 8 Q How about anybody else from the township,  
 9 building permit officer, any supervisor, anybody else?  
 10 A No.  
 11 Q They didn't seek your advice about this at  
 12 all?  
 13 A Not that I can recall.  
 14 Q What about --  
 15 A Let me stop there. I was requested by the  
 16 township to draft a response to the building permit  
 17 applications and I did do that. I think Mr. Van Dommelen  
 18 had written a draft and then I basically redid the draft.  
 19 Q Well, did you not have an opportunity to look  
 20 at the building permit applications in drafting the  
 21 response?  
 22 A I don't think so. I think my information came  
 23 from Ann. I don't recall seeing the applications.  
 24 Q Well, let me ask you this: If you didn't have  
 25 the building permit applications, who should have had them

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1 in order for you to respond to the building permit  
 2 applications that Mr. Corneal filled out?  
 3 A Well, you know, again, the application -- my  
 4 recollection is that I drafted the response without the  
 5 building permit applications based upon information provided  
 6 to me.  
 7 Q By Ann Wirth?  
 8 A Yes.  
 9 Q Did you talk to anybody else about it?  
 10 A No.  
 11 Q Did you talk to the building permit officer?  
 12 A No.  
 13 Q Mr. Van Dommelen, I mean.  
 14 A Yes.  
 15 Q But I guess I'll ask you again: If you didn't  
 16 have them, who should have had them in terms of -- I mean,  
 17 shouldn't somebody at the township review the building  
 18 permit applications?  
 19 A Well, I think Mr. Van Dommelen did. That was  
 20 my understanding.  
 21 Q What makes you think that?  
 22 A Because he drafted the initial response to the  
 23 building permit applications.  
 24 Q Did you tell him to draft that response?  
 25 A I did not, no.

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1 Q Did you tell him through telling somebody else  
 2 to have him draft that response or did you tell Miss Wirth  
 3 to tell him to draft a response?  
 4 A Not that I recall. I think that the  
 5 applications came to Mr. Van Dommelen. He drafted a  
 6 response. I was requested by the township to review it and  
 7 to revise it if I felt it necessary.  
 8 Q And did you do that?  
 9 A Yes, I did.  
 10 Q I'm going to show you a letter that we'll mark  
 11 as Newton Exhibit 12.  
 12 (Letter dated 9/1/00 with enclosures produced  
 13 and marked as Newton Exhibit No. 12.)  
 14 BY MS. MONTGOMERY:  
 15 Q Mr. Newton, have you seen this September 1,  
 16 2000 letter to Miss Wirth from Mr. Corneal prior to today?  
 17 A I don't believe so.  
 18 Q What about the attachments to the letter that  
 19 shows the second floor of the garage as open storage? Have  
 20 you seen that in the past?  
 21 A I don't believe so.  
 22 Q Did anybody ever discuss with you this  
 23 particular letter?  
 24 A Not that I can recall.  
 25 Q Did anybody discuss with you the August 31st

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1 letter that I showed you just a moment ago with the building  
 2 applications?  
 3 A Well, only in the context that I drafted a  
 4 response to the permit applications.  
 5 Q Did anybody discuss with you the drawings and  
 6 other things that were attached to the August 31 letter?  
 7 A Not that I can recall.  
 8 Q Now, I think that you testified earlier that  
 9 you drafted this response or that you revised a response  
 10 that Mr. Van Dommelen started out writing. I'm going to  
 11 show you a document we'll mark as Newton 13.  
 12 (Letter dated 10/10/00 produced and marked as  
 13 Newton Exhibit No. 13.)  
 14 BY MS. MONTGOMERY:  
 15 Q Is this the letter that you're referring to  
 16 that eventually went out from Mr. Van Dommelen --  
 17 A Yes, it is.  
 18 Q -- with your assistance?  
 19 A Yes.  
 20 Q Which part of this letter did you draft?  
 21 A I would say basically it's my letter.  
 22 Q This makes reference to, in the second  
 23 paragraph, your application inadequately described the  
 24 proposed construction. What was the inadequacy?  
 25 A My recollection is that that was a detail

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1 issue.  
2 Q What detail issue?  
3 A On what the -- what was to -- what was to be  
4 the proposed construction.  
5 Q But you never saw the application?  
6 A That's right. My communication was, again,  
7 through Mrs. Wirth.  
8 Q The same is true with respect to your third  
9 reason for denying the building permit applications?  
10 A That is correct.  
11 Q It did not include an adequate plan for the  
12 site showing the size and location of the proposed  
13 construction, right?  
14 A Correct.  
15 Q Now, what about this reference to the driveway  
16 ordinance? Not having complied with the driveway ordinance,  
17 what was that based on?  
18 A In July, the July township meeting, the  
19 township passed a driveway ordinance.  
20 Q And what was it that Mr. Corneal had done that  
21 they didn't think was correct?  
22 A I don't think he had done anything with  
23 respect to the ordinance, is my recollection.  
24 Q Well, it says you have not complied with the  
25 township's driveway ordinance.

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1 A A copy of which is enclosed.  
2 Q Right. In what way didn't he comply?  
3 A You know, again, my -- my recollection is he  
4 didn't do anything with respect to the driveway ordinance.  
5 Q Mr. Corneal didn't do anything?  
6 A Correct.  
7 Q On whose information are you basing that  
8 information?  
9 A Township information.  
10 Q What did you think he had to do --  
11 A I don't have the ordinance in front of me, but  
12 there were certain requirements that were set forth in the  
13 ordinance and I was informed that he had not complied.  
14 Q But you didn't have any individual --  
15 independent information --  
16 A No, absolutely not.  
17 Q Now, the letter also makes a reference to  
18 submitting sewage facilities planning modules to the  
19 township, correct? It's higher up in the second paragraph.  
20 A Yes.  
21 Q But you didn't see these sewage facilities  
22 planning modules, correct?  
23 A Not to my recollection. Again, I -- if Mr.  
24 Corneal sent a module with that letter, I don't remember at  
25 least examining it.

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1 Q All right, thank you. I want you to just look  
2 at the first sentence of this October 10, 2000 letter. It  
3 says please be advised that Jackson Township has referred to  
4 me for review your applications for building permits, right?  
5 A Yes.  
6 Q But they didn't give you the applications,  
7 right?  
8 A Well, this is under Mr. Van Dommelen's  
9 signature. I'm really writing the letter for Mr. Van  
10 Dommelen and it referred to him, yes.  
11 Q But my question still stands, they didn't give  
12 you them? I mean, either -- they didn't give you these  
13 applications?  
14 A Not that I can recall.  
15 Q How did Mr. Van Dommelen deliver to you the  
16 first draft of his letter?  
17 A He did not. I think Mrs. Wirth faxed it to  
18 me.  
19 Q So he wrote it and gave it to Mrs. Wirth, do  
20 you think?  
21 A I believe so.  
22 Q Did you save a copy of it?  
23 A No.  
24 Q Do you not usually save copies of things that  
25 the township supervisors send to you?

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1 A Not something like that, no.  
2 Q Do you have any other copies of any drafts of  
3 this letter?  
4 A No, I don't.  
5 Q When you wrote this letter for Mr. Van  
6 Dommelen, did you have any knowledge of whether he had  
7 actually reviewed the applications?  
8 A I believe he had, yes.  
9 Q Now, let me ask you this: Have you ever been  
10 involved in an appeal of a denial of a building permit  
11 application for any of the townships that you work for?  
12 A I don't believe so.  
13 Q Never?  
14 A (Witness shook his head negatively.)  
15 Q What about --  
16 A Let me say in this case Mr. Wilson -- Mr.  
17 Williams appealed the denial, okay. So in this case he had  
18 requested a hearing through the township on the denial of  
19 the permits and in that regard I believe I received a  
20 telephone call from him.  
21 And it was at or about the same time that the  
22 township had initiated a lawsuit against the Corneals to the  
23 Court of Common Pleas of Huntingdon County because they had  
24 commenced construction without a building permit. We had  
25 difficulty getting Mr. Corneal served with a copy of the

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1 complaint and motion for preliminary injunction. He's a  
 2 Centre County resident. We forwarded it, of course, the  
 3 complaint -- our sheriff's office forwarded the complaint to  
 4 the Centre County sheriff and he was not able to obtain  
 5 service.

6 And we had a preliminary hearing scheduled on  
 7 our request for injunctive relief that couldn't be held  
 8 because the Corneals weren't served. And it's about this  
 9 time I get the call from Terry Williams. And, again, I --  
 10 it's possible that I could have called him after I became  
 11 aware that he, you know, filed this appeal.

12 Q Do you know whether or not this request for a  
 13 hearing -- or for an appeal, hearing for an appeal, was  
 14 actually served, I should say, on the Jackson Township Board  
 15 of Supervisors prior to the time that the Huntingdon County  
 16 action was initiated against Mr. Corneal?

17 A I really don't know. All I can say is it was  
 18 at or about the same time. And I know Terry Williams, I  
 19 have high regard for him, and I said to him, look, let's sit  
 20 down and see if we can resolve this. I don't think it's  
 21 necessary to litigate the denial of the permit applications,  
 22 let's look to the larger issue and get this -- get this  
 23 solved.

24 So what we agreed to do on the date that was  
 25 scheduled for our preliminary hearing, we agreed to meet in

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1 A We met with Mr. Williams in order to try to  
 2 resolve all the issues involved in this litigation.

3 Q So when you say you had one with Mr. Williams,  
 4 you mean --

5 A He filed an appeal. We did not ever have an  
 6 appeal hearing.

7 Q That was my question, did you ever have an  
 8 appeal hearing --

9 A No.

10 Q -- in connection with any of the local  
 11 governments that you represent on a building permit  
 12 application denial?

13 A Not that I can recall.

14 Q Do you know as a township solicitor, a borough  
 15 solicitor, what kind of hearing should be held in connection  
 16 with the appeal of the denial of a building permit  
 17 application? Do you know what the format for that hearing  
 18 would be?

19 A Without looking it up, no.

20 Q Do you know who would hear the hearing? Who  
 21 would the hearing be before?

22 A My sense is it would be before the board of  
 23 supervisors.

24 Q Do you know whether there was ever an appeal  
 25 hearing held before the board of supervisors in connection

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1 the Huntingdon County Courthouse and in fact we did meet  
 2 with Mr. Williams and that meeting included all of the  
 3 township supervisors, Mr. Van Dommelen. I believe Barry  
 4 Parks, the sewage enforcement officer, and myself.

5 And at that time we basically explained to Mr.  
 6 Williams the township's position, where the township was  
 7 coming from and we charted a course to resolve this. It was  
 8 our hope and our goal to have it resolved by the end of the  
 9 year. And rather than litigate our equity complaint, we  
 10 simply tried to take whatever steps necessary to resolve  
 11 this short of any litigation.

12 Q But back to my original question -- I'm just  
 13 going to go back to the very beginning. My question -- my  
 14 first question was whether or not you've ever had an appeal  
 15 on a denial of a building permit application with respect to  
 16 any of the townships or boroughs or other local governments  
 17 that you represent.

18 A Well, we had one with Mr. Corneal through  
 19 Attorney Williams here.

20 Q So it's your testimony that the meeting that  
 21 you had in the courthouse in connection with the preliminary  
 22 injunction hearing was the appeal of the building permit  
 23 application?

24 A Absolutely not.

25 Q What's the --

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1 with Mr. Corneal's appeal?

2 A The answer is no. And the reason for that is  
 3 by an agreement with Mr. Williams we decided to forego the  
 4 hearing and address the issues to see if we could resolve  
 5 them amicably.

6 Q Is it your understanding that Mr. Williams was  
 7 waiving the right to a hearing on the denial of the building  
 8 permit application?

9 A I don't know if that was actually ever  
 10 discussed.

11 Q Was there anything in writing about that?

12 A No.

13 Q You're saying that in a telephone call Mr.  
 14 Williams agreed on behalf of Mr. Corneal that you wouldn't  
 15 have the hearing?

16 A No, that's not what I said at all.

17 Q Well, I'm having a hard time understanding --

18 A Well, what I -- what I said was that -- what I  
 19 proposed to Mr. Williams was instead of going through the  
 20 hearing on this denial, we get to the heart of the matter  
 21 and see if we can resolve the issues. He agreed to do that.

22 Q Well, for the record, I'll ask you to look at  
 23 what we'll mark as Newton Exhibit 14.

24 (Letter dated 11/10/00 produced and marked as  
 25 Newton Exhibit No. 14.)

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<p style="text-align: right;">122</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q Now, this is a November 10, 2000 appeal letter</p> <p>3 from Terry Williams, correct?</p> <p>4 A Yes.</p> <p>5 Q Have you seen this in the past?</p> <p>6 A I believe I have.</p> <p>7 Q Did the township supervisors forward this to</p> <p>8 you?</p> <p>9 A Yes, I think so.</p> <p>10 Q Did you call Mr. Williams in connection with</p> <p>11 this appeal on behalf of the supervisors?</p> <p>12 A I believe so, yes.</p> <p>13 Q When did you call him?</p> <p>14 A Well, shortly after the township had received</p> <p>15 this letter, I believe I contacted Mr. Williams and at that</p> <p>16 time I suggested that we sit down -- when I say we, I mean</p> <p>17 the township and Mr. Williams, to look at these issues and</p> <p>18 attempt to resolve them, and in fact that's what we did. We</p> <p>19 met the same day that the motion for preliminary injunction</p> <p>20 was scheduled at the Huntingdon County Courthouse.</p> <p>21 Q And that preliminary injunction has not been</p> <p>22 resolved one way or the other yet, correct?</p> <p>23 A That's correct.</p> <p>24 Q So it's pending?</p> <p>25 A Well, I think it's probably mute at this</p>	<p style="text-align: right;">124</p> <p>1 what you're saying?</p> <p>2 A Yes, that's correct.</p> <p>3 Q And what does the township intend to do with</p> <p>4 that information?</p> <p>5 A Forward them on to the Department of</p> <p>6 Environmental Protection.</p> <p>7 Q Well, as I understand, the preliminary</p> <p>8 injunction hearing was -- and I'm, of course, not a party to</p> <p>9 it and I'm not that familiar with it, but the preliminary</p> <p>10 injunction motion that was filed was designed to stop Mr.</p> <p>11 Corneal from building his house, correct?</p> <p>12 A Yes, the township had received a number of</p> <p>13 complaints from other residents concerning this construction</p> <p>14 and the fact that Mr. Corneal was building without a</p> <p>15 building permit.</p> <p>16 Q What other residents were those?</p> <p>17 A I don't know. This is what I'm being told</p> <p>18 from the township.</p> <p>19 Q Did you draft the complaint for the township?</p> <p>20 A Yes, I did.</p> <p>21 Q You didn't ask them who complained to them</p> <p>22 about Mr. Corneal building?</p> <p>23 A No, and it really wouldn't matter who</p> <p>24 complained. No one would have had to have complained if</p> <p>25 there was a violation.</p>
<p style="text-align: right;">123</p> <p>1 point. I believe Mr. Corneal has completed his</p> <p>2 construction. I'm happy to report that as of the township's</p> <p>3 June meeting, after hearing the presentation from Mr. Bowes,</p> <p>4 it looks like everything is going to be fine with respect to</p> <p>5 sewage modules.</p> <p>6 Mr. Bowes on site indicated to us in our May</p> <p>7 18th meeting that what had previously been proposed were not</p> <p>8 acceptable. Those sites have been destroyed and I believe</p> <p>9 that they were too close to the road that was constructed,</p> <p>10 but I think everything is basically on track to be resolved.</p> <p>11 Q When was this June meeting?</p> <p>12 A The first Monday in June.</p> <p>13 Q Was this a public meeting?</p> <p>14 A This is the township's June meeting, yes.</p> <p>15 Q The township's June meeting?</p> <p>16 A Yes.</p> <p>17 Q Mr. Bowes is who? Could you identify him for</p> <p>18 the record?</p> <p>19 A Mr. Bowes is a sewage enforcement officer that</p> <p>20 has been retained by Mr. Corneal through Terry Williams to</p> <p>21 do the design for the sewage systems that are going to go</p> <p>22 in. And I believe that he is going to design -- I think</p> <p>23 it's a newer technology called micromounds.</p> <p>24 Q So you're pleased to report that Mr. Bowes has</p> <p>25 found that the sewage modules are now satisfactory; is that</p>	<p style="text-align: right;">125</p> <p>1 Q It might matter for this lawsuit.</p> <p>2 A It could.</p> <p>3 Q But the appeal that Mr. Williams sent to you</p> <p>4 -- or sent to the township, I'm sorry, on November 10, 2000</p> <p>5 concerned the denial of all his applications, correct?</p> <p>6 A Building permit applications.</p> <p>7 Q Exactly.</p> <p>8 A Yes.</p> <p>9 Q The preliminary injunction was designed to get</p> <p>10 -- for Mr. Corneal's house primarily, correct?</p> <p>11 A No, it was every -- any and all construction.</p> <p>12 I don't believe the township knew actually what was being</p> <p>13 constructed. I think there are no trespassing signs that</p> <p>14 are posted. I think the township's knowledge came from, you</p> <p>15 know, construction vehicles going in and out and reports of</p> <p>16 others.</p> <p>17 Q Well, Mr. Corneal's building applications say</p> <p>18 what he was trying to construct, don't they?</p> <p>19 A Sure.</p> <p>20 Q So if Mr. Corneal didn't need sewage for his</p> <p>21 art studio and didn't need sewage for his garage, would</p> <p>22 there have been any grounds for him to have been denied a</p> <p>23 building application -- a building permit?</p> <p>24 A I'll stand on what was set forth in the letter</p> <p>25 under Mr. Van Dommelen's signature.</p>

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1 Q Okay. What date was the preliminary  
 2 injunction hearing scheduled to be held?  
 3 A I don't know. I don't recall.  
 4 Q Did you at the meeting that was held in the  
 5 courthouse which you say was held on the date that the  
 6 preliminary injunction hearing --  
 7 A Yes.  
 8 Q -- had been scheduled, did you discuss the  
 9 appeal of the denial of the building permit application  
 10 specifically?  
 11 A We did not. We instead tried to set forth a  
 12 plan where we could resolve all of these issues to get them  
 13 done.  
 14 Q Well, let me ask you this: By the date of the  
 15 meeting in the courthouse had you received -- are you sure  
 16 that you had received the appeal on the building permit --  
 17 A I'm not sure. It may have been prior to  
 18 that. I don't know. But there was some reason that I was  
 19 in touch with Mr. Williams and -- either he called me or I  
 20 called him about this appeal and the gist of our  
 21 conversation was let's sit down and see if we can work it  
 22 out.  
 23 Q I'm going to show you a document that we'll  
 24 mark as Newton Exhibit 15.  
 25 (Invoice dated 8/4/00 produced and marked as

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1 Newton Exhibit No. 15.)  
 2 BY MS. MONTGOMERY:  
 3 Q Mr. Newton, do you recognize this document?  
 4 A Yes.  
 5 Q Is this a copy of an invoice that you sent to  
 6 the supervisors for services rendered?  
 7 A It is.  
 8 Q So this was on August 4, 2000?  
 9 A Right.  
 10 Q Is it fair to assume that anything you had  
 11 done up to and including August 4, 2000 would be listed on  
 12 this invoice back to the time of your last invoice?  
 13 A Not necessarily.  
 14 Q Why is that?  
 15 A Well, as I indicated to you, I attempt to  
 16 reconstruct some of these bills and often I miss things and  
 17 sometimes I bill based upon when a project is over. So I  
 18 wouldn't necessarily do it on a chronological basis but on  
 19 what's done.  
 20 Q Well, let's look at Number 4 here, meeting  
 21 with supervisors on July 6, 2000, re: Corneal lawsuit.  
 22 A Yes.  
 23 Q Now, was that the meeting that you had with  
 24 the supervisors without the presence of Mr. Sherr?  
 25 A Yes, I believe so.

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1 Q What about the meeting with the supervisors on  
 2 July 13, 2000?  
 3 A That may have been with Mr. Sherr.  
 4 Q So it was one or the other?  
 5 A I'm pretty sure -- I'm sure it wasn't the  
 6 first one. I think it might have been the second one.  
 7 Q How long was that meeting, do you recall?  
 8 A I don't recall.  
 9 Q Now, I see a reference to a letter to Ann  
 10 Wirth dated May 8, 2000, re: David Corneal. That's  
 11 Number 2.  
 12 A Yeah, I think that would be probably the  
 13 transmittal letters of his letters to me -- one letter dated  
 14 May 5th and a copy of Mr. Van Dommelen's letter.  
 15 Q So let me just ask you this: You have  
 16 indicated that you bill them at \$60 an hour, right?  
 17 A Approximately, yes.  
 18 Q So at \$25 an hour it would have taken you  
 19 nearly a half hour to draft this letter, correct?  
 20 A Well, not necessarily, no. I mean --  
 21 Q I'm just trying to really --  
 22 A That is -- you notice here I don't have an  
 23 hourly rate down here, you know. It's just what I feel was  
 24 appropriate for the circumstances.  
 25 Q I'm just trying to understand whether there

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1 exists another letter other than some transmittal letters  
 2 since this was --  
 3 A I don't believe so.  
 4 Q Do you save copies of all the letters that you  
 5 -- correspondence that you send to the supervisors in  
 6 connection with --  
 7 A Generally, yes.  
 8 Q I see here there's a reference to a meeting  
 9 with the supervisors in May 2000 regarding David Corneal,  
 10 correct?  
 11 A New Enterprise Stone and Lime Company and  
 12 David Corneal. As I indicated to you previously, I think  
 13 the purpose of the meeting was to discuss this New  
 14 Enterprise problem and Mr. Corneal -- the subject of Mr.  
 15 Corneal came up at that meeting.  
 16 Q Now, was this one of those workshop meetings,  
 17 is that what you're thinking?  
 18 A That's what I testified to previously.  
 19 Q Was this meeting subsequent to the time that  
 20 Mr. Van Dommelen had initially denied building permit  
 21 applications to Mr. Corneal?  
 22 A No, I don't believe so.  
 23 Q So you think -- as far as Number 2 goes, do  
 24 you think you have copies of the letters to Ann Wirth, re:  
 25 David Corneal?



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1 A I probably do.  
2 Q Now, you have preparation of draft response to  
3 the Corneal's complaint, correct?  
4 A Yes.  
5 Q Did you save copies of your draft responses?  
6 A This would be a federal lawsuit. I believe I  
7 did, yes.  
8 Q And then there's reference to a letter to Ann  
9 Wirth dated August 4, 2000. Do you know whether that  
10 involved David Corneal?  
11 A It may have been a transmittal letter. I seem  
12 to recall there was a letter that was dated August 3rd. I'm  
13 not sure.  
14 Q Do you know when the last time you sent an  
15 invoice to the township prior to this August 4th --  
16 A Prior to August 4th, no, I don't.  
17 Q You have no recollection at all?  
18 A No.  
19 Q Would you have that in your records?  
20 A Probably, yes.  
21 Q Let me ask you this: I know you don't have a  
22 date for your meeting with the supervisors in May, right?  
23 A (Witness nods head affirmatively.)  
24 Q Which is Number 3 --  
25 A Yes.

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1 Q -- regarding David Corneal. But you did  
2 testify that that was I think a workshop meeting. Was that  
3 prior --  
4 A That's my recollection, yes.  
5 Q So it would have been prior to their monthly  
6 meeting, correct? Isn't that --  
7 A No.  
8 Q -- when they have their workshop meetings?  
9 A Not necessarily, no.  
10 Q Do you know whether it was before or after the  
11 May 5 letter that was sent to you by Mr. Corneal from --  
12 regarding Mr. Van Dommelen's refusal to give him building  
13 permit applications?  
14 A I don't know.  
15 Q Was the workshop meeting held in the afternoon  
16 or in the evening?  
17 A I would say afternoon.  
18 Q Late afternoon, early evening, what?  
19 A Well, one of the -- I just -- I would say late  
20 afternoon -- in the afternoon. I'm not sure exactly when.  
21 Q And you had traveled out to the township  
22 office, right, to do that?  
23 A That's correct.  
24 Q So do you remember whether it was getting to  
25 be dusk or was it dark or anything driving out to that

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1 meeting?  
2 A I don't believe so. I think it was daylight.  
3 Q Mr. Newton, we've already made this a copy of  
4 the record and it's so large I'm not going to do that again,  
5 but I'm going to ask you to look at the subdivision and land  
6 development ordinance and identify it for me, if you can,  
7 please.  
8 A It appears to be the Jackson Township  
9 subdivision ordinance.  
10 Q Can you look on page 71 of the ordinance.  
11 A Yes.  
12 Q Do you see where it's dated July 7, 2000?  
13 A Yes.  
14 Q Did you become aware prior to this moment that  
15 this was dated July 7, 2000?  
16 A No, I think that's a mistake.  
17 Q You think it's just the wrong date?  
18 A Yes.  
19 Q What makes you think that?  
20 A Because the township meeting was on July 8th.  
21 Q July 10, correct?  
22 A Well -- let me see. Whenever the first --  
23 whenever the meeting was -- I thought it was the 8th, but  
24 maybe it was -- Monday.  
25 Q The first Monday of the month --

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1 A Yes.  
2 Q -- that's not a holiday?  
3 A Is that the 10th?  
4 Q I think it was, but your counsel is checking  
5 her calendar.  
6 A It would have been the 10th.  
7 Q Now, you weren't at that meeting, though, you  
8 testified, correct?  
9 A No, I wasn't.  
10 Q Do you know whether this subdivision and land  
11 development ordinance was signed at the meeting, prior to or  
12 after?  
13 A I wasn't there. My sense is it would have  
14 been signed at the meeting.  
15 Q I'm going to show you what we've marked  
16 previously in depositions. Again, I don't think I will make  
17 these additional copies for the record, but it's the  
18 Huntingdon County Planning Commission letter to Ann Wirth  
19 dated February 24, 2000.  
20 A Okay.  
21 Q Have you seen this letter in the past?  
22 A I believe I have.  
23 Q What makes you believe you have?  
24 A Because I believe that Ann would have maybe  
25 faxed me a copy of it or mailed it to me.



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1 Q Did you review it at the time, do you know?  
 2 A **I probably looked at it, yes.**  
 3 Q Did you have any discussions with the township  
 4 about what they needed to do in order to get the subdivision  
 5 proposal in order?  
 6 A **What do you mean?**  
 7 Q Well, this letter I believe indicates that  
 8 there was going to be a problem or two with the proposed  
 9 subdivision from Mr. Corneal, correct?  
 10 A **Yes.**  
 11 Q Did you have any discussion with the township  
 12 or any of its officials or its secretary about Mr. Corneal's  
 13 subdivision after you received this letter?  
 14 A **Not that I can recall.**  
 15 Q Do you think you received this letter at about  
 16 the time that it was written?  
 17 A **I have no idea.**  
 18 Q What about this April 20, 2000 letter from the  
 19 Huntingdon County Planning Commission which has been made  
 20 part of the record in the past? Do you recall receiving a  
 21 copy of that letter?  
 22 A **I would say yes.**  
 23 Q Why would you say yes?  
 24 A **Because I believe Ann forwarded it on to me.**  
 25 Q Did she forward it to you at about the time it

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1 place?  
 2 A **No.**  
 3 Q Can you put it in some kind of estimated time  
 4 frame?  
 5 A **Well, I -- I remember -- and, again, this was**  
 6 **either at the -- at one of the meetings that Mr. Corneal**  
 7 **attended. I believe Mrs. Wirth informed me that Mr. Corneal**  
 8 **put the sewage modules on the table where the supervisors**  
 9 **were sitting and then by the end of the meeting had taken**  
 10 **them away. So at least at the conclusion of that meeting,**  
 11 **even if the supervisors wanted to forward those modules on**  
 12 **to DEP, they didn't have them to forward them. I do**  
 13 **remember that discussion specifically.**  
 14 Q That's what Mrs. Wirth told you?  
 15 A **That's what Mrs. Wirth told me.**  
 16 Q She told you that around the time of the  
 17 meeting that Mr. --  
 18 A **I can only assume so. I don't recall, but I**  
 19 **would think that would be correct.**  
 20 Q So at that time did she discuss with you the  
 21 fact that the supervisors had indicated to Mr. Corneal that  
 22 he couldn't build because he would have to subdivide? In  
 23 that same conversation did you have that discussion?  
 24 A **I don't recall. I do know that there was an**  
 25 **issue concerning -- that in fact there was already an older**

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1 was written?  
 2 A **I would say so, but I don't recall.**  
 3 Q Did you have any discussion with the township  
 4 about Mr. Corneal's proposed subdivision at that time?  
 5 A **Not that I can recall.**  
 6 Q Now, I think you had testified earlier that  
 7 when they send something to you that they anticipate  
 8 whatever guidance or advice you might have for them,  
 9 correct?  
 10 A **That's right.**  
 11 Q Did you have any advice or guidance for them  
 12 in connection with this letter?  
 13 A **Not that I can recall.**  
 14 MS. MONTGOMERY: I'm going to take a moment  
 15 here to review some notes and documents. We can take a five  
 16 minute break if you want.  
 17 (Break taken at 1:58 p.m. until 2:23 p.m.)  
 18 BY MS. MONTGOMERY:  
 19 Q We had talked a moment ago, Mr. Newton -- we  
 20 had talked some time ago about discussions that you might  
 21 have had about Mr. Corneal's sewage planning modules. I  
 22 just need to know from you whether you recall talking to Ann  
 23 Wirth about Mr. Corneal's sewage planning modules?  
 24 A **Yes.**  
 25 Q Do you recall when that conversation took

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1 dwelling on the premises and if he was going to put another  
 2 dwelling on that contained sewage it was a subdivision for  
 3 DEP purposes.  
 4 Q You had said that the Altoona division of DEP  
 5 or --  
 6 A **That would be Joe Rouzer.**  
 7 Q Joe Rouzer?  
 8 A **Yes, uh-huh.**  
 9 Q From the Altoona regional office?  
 10 A **Yes.**  
 11 Q And that's his interpretation?  
 12 A **Yes.**  
 13 Q Has he been at the Altoona DEP regional office  
 14 for many, many years?  
 15 A **Yes. I'd say in excess of 20 years.**  
 16 Q But you're aware of at least one other  
 17 regional office of DEP that doesn't interpret the law that  
 18 way?  
 19 A **I became aware of that on or about May 18th**  
 20 **from Tom Bowes because we had a discussion on Mr. Corneal's**  
 21 **property about this issue. And Mr. Rouzer was there and**  
 22 **explained to Mr. Bowes that the way they have always**  
 23 **interpreted that would be just the way that the townships in**  
 24 **Jackson County have followed.**  
 25 MR. SHERR: If I may, you just said Jackson

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<p style="text-align: right;">138</p> <p>1 County.</p> <p>2 THE WITNESS: I meant -- Jackson Township I</p> <p>3 thought I said.</p> <p>4 BY MS. MONTGOMERY:</p> <p>5 Q How long was the conversation that you had</p> <p>6 with Mrs. Wirth in which she told you that Mr. Corneal had</p> <p>7 presented some sewage planning modules but taken them back?</p> <p>8 A <b>It wasn't very long. I don't recall.</b></p> <p>9 Q Do you think it was more than 10 minutes?</p> <p>10 A <b>No, less.</b></p> <p>11 Q Did she call you?</p> <p>12 A <b>Yes.</b></p> <p>13 Q Was she reporting to you on the events of that</p> <p>14 meeting?</p> <p>15 A <b>I would say yes.</b></p> <p>16 Q Was she asking you for advice?</p> <p>17 A <b>I don't think specifically asking me for</b></p> <p>18 <b>advice but informing me of what went on.</b></p> <p>19 Q So she told you that he had brought the sewage</p> <p>20 modules and taken them away, but you don't recall if she</p> <p>21 told you that Mr. Corneal was informed at that meeting that</p> <p>22 his subdivision wouldn't be approved?</p> <p>23 A <b>Again, that's all I can recall from the</b></p> <p>24 <b>conversation.</b></p> <p>25 Q Do you think it was in very close -- it was in</p>	<p style="text-align: right;">140</p> <p>1 about that.</p> <p>2 Q Now, that was in -- that was prior to your May</p> <p>3 2001 site visit?</p> <p>4 A <b>Yes.</b></p> <p>5 Q When you went to the May 2001 site visit, did</p> <p>6 you observe the various sites?</p> <p>7 A <b>Yes.</b></p> <p>8 Q Were you aware that other than the two sites</p> <p>9 then that they had said had been destroyed that there were a</p> <p>10 number of other previously approved sites?</p> <p>11 A <b>What I remember is Mr. Bowes agreeing with Mr.</b></p> <p>12 <b>Parks that the sites that were shown previously were</b></p> <p>13 <b>unacceptable. I believe he agreed with that.</b></p> <p>14 Q But do you -- you said you went on the</p> <p>15 property?</p> <p>16 A <b>I did.</b></p> <p>17 Q And you observed, for example, an apartment?</p> <p>18 A <b>Yes.</b></p> <p>19 Q Did you also observe a number of other septic</p> <p>20 sites?</p> <p>21 A <b>We -- as I recall, there were three different</b></p> <p>22 <b>pits that we walked to. I believe there were three.</b></p> <p>23 Q You walked to three of them. Was the other</p> <p>24 one satisfactory, do you know, the third --</p> <p>25 A <b>Well, these were the ones -- these were new.</b></p>
<p style="text-align: right;">139</p> <p>1 close proximity to that meeting so that would be like within</p> <p>2 a week or within a couple of days or something?</p> <p>3 A <b>As to when the phone conversation occurred?</b></p> <p>4 Q Exactly.</p> <p>5 A <b>I would say within a week, sure.</b></p> <p>6 Q Did you ever have any discussion with Mr.</p> <p>7 Rouzer from DEP during the year 2000 about this subdivision</p> <p>8 issue and the erection of the second dwelling on a property</p> <p>9 making it a subdivision?</p> <p>10 A <b>I don't believe in the year 2000. Certainly</b></p> <p>11 <b>in 2001.</b></p> <p>12 Q But not during the year 2000?</p> <p>13 A <b>Not that I can recall.</b></p> <p>14 Q Did you ever discuss Mr. Corneal's property</p> <p>15 with Mr. Rouzer?</p> <p>16 A <b>Yes.</b></p> <p>17 Q When was that?</p> <p>18 A <b>May 18th we met on site.</b></p> <p>19 Q Of this year?</p> <p>20 A <b>Yes.</b></p> <p>21 Q What about in the past?</p> <p>22 A <b>I believe there was another time -- there was</b></p> <p>23 <b>another time in 2001 and this was after our SEO had</b></p> <p>24 <b>determined that the initial sites had been destroyed and</b></p> <p>25 <b>were no longer usable and I believe I talked to Mr. Rouzer</b></p>	<p style="text-align: right;">141</p> <p>1 <b>These were ones that were recently dug.</b></p> <p>2 Q What about the ones that -- are you aware that</p> <p>3 Barry Parks approved sewage modules for Mr. Corneal's</p> <p>4 property --</p> <p>5 A <b>Yes.</b></p> <p>6 Q -- in the year 2000?</p> <p>7 A <b>Yes.</b></p> <p>8 Q Are you aware that later two of them were --</p> <p>9 after all the disapprovals and all of that two of them were</p> <p>10 said to be now unsatisfactory because something had been</p> <p>11 driven over them, right?</p> <p>12 A <b>Yes.</b></p> <p>13 Q Were you aware that the other sites that he</p> <p>14 had approved remained satisfactory?</p> <p>15 A <b>I was not aware. I'm not saying that's not</b></p> <p>16 <b>the case, but that -- those sites I don't believe were</b></p> <p>17 <b>looked at. I think we looked at the newer holes that were</b></p> <p>18 <b>dug.</b></p> <p>19 Q Around the time that Mr. Parks approved the</p> <p>20 sewage modules presented by Mr. Corneal, did you receive any</p> <p>21 contact from the township about those sewage modules?</p> <p>22 A <b>Not that I recall.</b></p> <p>23 Q Are you aware that despite the fact that Mr.</p> <p>24 Parks had approved them that the township then said no,</p> <p>25 disapprove them?</p>

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1 A Well, then we get into the issue they really  
2 didn't have them to approve. As I understand from Mrs.  
3 Wirth, Mr. Corneal took them with him.  
4 Q Did she tell you in fact that he was told to  
5 take them back because they wouldn't review them?  
6 A No, she didn't tell me that.  
7 Q Did the supervisors seek counsel from you  
8 about filing the lawsuit against Mr. Corneal that was filed  
9 in Huntingdon County?  
10 A Yes.  
11 Q You actually drafted that --  
12 A Yes.  
13 Q -- correct? When did they first seek your  
14 counsel about that, filing a lawsuit in Huntingdon County  
15 against Mr. Corneal?  
16 A Probably towards -- the letter that we  
17 reviewed I believe is dated July 28th of 2000. So it would  
18 have been around that time.  
19 Q When did you actually file that lawsuit?  
20 A I believe it was in October.  
21 Q And what happened between July 28th and  
22 October in connection with the filing of that lawsuit?  
23 A Be more specific.  
24 Q Well, why did you wait until October to file  
25 that lawsuit?

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1 A I think there was a -- I think there was  
2 another letter that we had written -- I think that was, you  
3 know, an August letter that I believe we have reviewed.  
4 Q In this deposition?  
5 A I think so. I believe I wrote a letter in  
6 August. Maybe we haven't reviewed it, but it was just, I  
7 guess, until October when the complaint was ready and we  
8 filed it hoping that we could resolve this without filing  
9 it.  
10 Q You think you wrote another letter to Mr. and  
11 Mrs. Corneal in August?  
12 A I think I wrote a letter in August.  
13 Q After the July 28th letter?  
14 A Yes.  
15 Q Would you have a copy of that in your files?  
16 A I believe I did and I believe it's in the  
17 documents that were copied.  
18 Q From the township you mean?  
19 A Yes.  
20 Q Have you had an opportunity to review the  
21 documents that were --  
22 A Yes.  
23 Q -- copied? When did you have that  
24 opportunity?  
25 A This morning.

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1 Q So not all of them, a selection, I suppose,  
2 correct?  
3 A Yes.  
4 Q Well, we haven't had an opportunity to review  
5 all those documents. Some of them, as many of them as we've  
6 been able to make time for. Did the supervisors ever  
7 contact you about their obligation to produce documents in  
8 this lawsuit?  
9 A No.  
10 Q Well, I'll represent to you that we have not  
11 found so far that letter.  
12 A I believe I -- I could be wrong on the date,  
13 but I think I saw it this morning.  
14 Q Well, we'll see if we find it. I think that  
15 you had testified that there were a number of revisions to  
16 the land development ordinance as we went -- there were a  
17 number of revisions to the subdivision ordinance before it  
18 was actually passed.  
19 A (Witness nods head affirmatively.)  
20 Q Do you know whether or not each of those  
21 iterations of the proposed subdivision ordinance were made  
22 available for the public?  
23 A I don't know. Anyone who attended a township  
24 meeting certainly would have access to that.  
25 Q Didn't Mr. Corneal ask you for a copy of the

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1 proposed ordinance at one time?  
2 A He may have and -- I'd have to refer to that  
3 August letter. I know he was ultimately sent a copy.  
4 Q The August letter that you're referring to is  
5 not in addition to -- it is in addition to this July 28th  
6 letter that you're referring to?  
7 A Yes, that's what my recollection is.  
8 Q But you --  
9 A I think the supervisors asked me in August to  
10 write to him and say, look, get a building permit and then I  
11 think there was a follow-up letter in August.  
12 Q But in any event, I think I just asked you  
13 whether or not Mr. Corneal asked you for a copy of the  
14 subdivision ordinance and you said he may have, correct?  
15 A He may have.  
16 Q Do you know whether or not you sent him a copy  
17 of it?  
18 A I may have. If I did, it would be referenced  
19 in this August 28 letter.  
20 Q You think it's an August 28th letter or do you  
21 think it's a July 28th?  
22 A Well, I -- it's July -- the August letter,  
23 whenever the date was in August.  
24 Q Did you ever have occasion to talk to the  
25 supervisors individually about this issue of Mr. Corneal's

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1 property?  
2 A One-on-one?  
3 Q Yes.  
4 A No, not that I can recall.  
5 Q Mr. Wilson has never called you directly to  
6 talk about it?  
7 A If Mr. Wilson called me, it would be in the  
8 context of we've got to get something moving on the lawsuit  
9 because people in the township were upset that nothing was  
10 being done, etcetera. He may have called me. If he did, I  
11 believe it was in that context.  
12 Q Well, going back briefly to your August 4,  
13 2000 invoice to the township, you would have copies of each  
14 of the documents referenced in this invoice, correct, in  
15 your files?  
16 A I should have.  
17 Q Letters to --  
18 A If I don't, the township certainly has them.  
19 And if I don't, they would be in the township records.  
20 Q And would you have a copy of the additional  
21 notice of the meeting --  
22 A I should have, yes.  
23 Q The meeting where the subdivision ordinance  
24 was ultimately passed. You'd have a copy of that  
25 additional --

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1 have been sent to him at the time of Mr. Van Dommelen's  
2 letter. I think there might be a reference to enclosing  
3 that.  
4 Q I notice this August 29, 2000 letter went out  
5 and then, as you recall, we have the September -- the  
6 August 31 and September 1 application sent right back,  
7 right?  
8 A I guess so, yes.  
9 Q Those are the documents that you reviewed in  
10 this deposition, right?  
11 A Yes. I don't recall the dates, but if that  
12 was the dates, yeah, fine.  
13 Q Well, these were Newton Exhibits 11 and 12.  
14 A Okay.  
15 Q Letters dated August 31 and September 1, 2000  
16 with building application and materials attached. So I just  
17 want to ask you: Having sent the applications to him, did  
18 you not follow up to see whether or not the applications had  
19 been filled out and sent back?  
20 A No. At least as of the date that I wrote the  
21 letter I wasn't aware that they had been.  
22 Q You mean as of the date that you wrote the  
23 letter for Van Dommelen's signature, is that what you  
24 mean?  
25 A No, this is dated August 29th.

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1 A My recollection is on the Municipalities  
2 Planning Code notice means publication two times in two  
3 consecutive weeks.  
4 Q Exactly.  
5 A Yeah.  
6 MS. MONTGOMERY: Would you mark that as Newton  
7 Exhibit 16.  
8 (Letter dated 8/29/00 produced and marked as  
9 Newton Exhibit No. 16.)  
10 THE WITNESS: I think that's the letter I'm  
11 referring to.  
12 BY MS. MONTGOMERY:  
13 Q This is the August 29, 2000 letter?  
14 A Yes, um-hum.  
15 Q And in this letter it indicates that you in  
16 fact did --  
17 A Yes.  
18 Q -- send Mr. Corneal the building permit  
19 application --  
20 A Yes.  
21 Q -- that he had been trying to get?  
22 A Yes.  
23 Q So they were sent then under cover of a letter  
24 dated August 29, 2000?  
25 A Yes. I think the subdivision ordinance might

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1 Q Right.  
2 A And there's a letter from Mr. Corneal which is  
3 Exhibit 11 --  
4 Q Right.  
5 A -- enclosing the building permit  
6 applications --  
7 Q Right.  
8 A -- along with the check and that's dated  
9 August 31st.  
10 Q Right.  
11 A I can only assume that he probably had the  
12 building permit application already.  
13 Q Why would you assume that?  
14 A Well, if my letter is dated the 29th, you  
15 know, I can only assume by the time the mail gets from  
16 Huntingdon to State College -- well, he might have done it  
17 right away. So it's possible, yeah. I don't know.  
18 MS. MONTGOMERY: Well, I don't think I have  
19 any other questions for you, Mr. Newton, pending a review of  
20 the documents that we only recently received from the  
21 township in which case we might need to call you back.  
22 THE WITNESS: How about in my county?  
23 MS. MONTGOMERY: I'm sorry?  
24 THE WITNESS: Love to have you come to  
25 Huntingdon County.

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1 MS. MALADY: We've been there.  
 2 MS. MONTGOMERY: We've been there.  
 3 THE WITNESS: Thank you.  
 4 MS. MONTGOMERY: It's really quite nice.  
 5 Thank you.  
 6 (The deposition was concluded at 2:46 p.m.)  
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1  
 2 COUNTY OF DAUPHIN :  
 : SS  
 3 COMMONWEALTH OF PENNSYLVANIA :  
 4 I, Teresa K. Bear, Reporter-Notary Public,  
 5 authorized to administer oaths within and for the  
 6 Commonwealth of Pennsylvania and take depositions in the  
 7 trial of causes, do hereby certify that the foregoing is the  
 8 testimony of LARRY L. NEWTON.  
 9 I further certify that before the taking of  
 10 said deposition, the witness was duly sworn; that the  
 11 questions and answers were taken down stenographically by  
 12 the said Teresa K. Bear, a Reporter-Notary Public, approved  
 13 and agreed to, and afterwards reduced to typewriting under  
 14 the direction of the said Reporter.  
 15 I further certify that the proceedings and  
 16 evidence are contained fully and accurately to the best of  
 17 my ability in the notes taken by me on the within  
 18 deposition, and that this copy is a correct transcript of  
 19 the same.  
 20 In testimony whereof, I have hereunto  
 21 subscribed my hand this 27th day of June, 2001.  
 22  
 23  
 24 \_\_\_\_\_  
 Teresa K. Bear, Reporter  
 Notary Public  
 My commission expires  
 25 on April 13, 2003